

England & Wales
K W 15/K 6

CASES

AND

Resolutions

OF

CASES,

Adjudg'd in the Court of
KING's BENCH.

CONCERNING

Settlements and Removals, from the
first Year of King George I. to the pre-
sent Time.

*Most of them adjudged in the Time, when
Lord Parker sat Chief Justice there.*

The Fourth Edition Corrected, with Additions,
and an Appendix ; being a Collection of the
like Cases, adjudged when Sir JOHN HOLT, Knt.
was Chief Justice : To which is added an Ab-
stract of the Statutes concerning Provision for the
POOR ; and also those relating to VAGRANTS.

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CASES

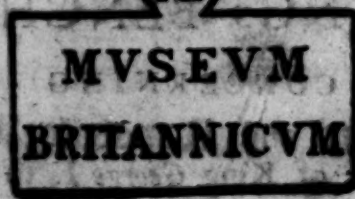
AND

Resolutions

OF

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Adjudged in the Court of



of the Court of the King's Bench, in the Year, when
Lord Parker was Chief Justice.

The famous Serjeant Cresswell, with Addition
and an Appendix, being a Collection of the
Cases, reported under Sir John Holt, and
Sir John Leake, to which is added an Ap-
pendix of the Cases, reported under the
Lord Chief Justice, and the Lord Justice

of the King's Bench, from the Year 1700 to
1750, and the Cases, reported under the
Lord Chief Justice, and the Lord Justice

THE
PREFACE.

A Treatise concerning Settlements and Removals of poor People, is of universal Concern and Advantage: The Law in Relation thereto is very curious. These following Sheets contain Cases that concern this Subject only; a Treatise hitherto intirely New; Most of them were adjudged during the Time Lord Parker sat Chief Justice in the King's Bench; in whom indeed

The P R E F A C E.

we find the Beauty of Argument : Methinks there was found in that eloquent Man, an Evisceratio Causæ, a dextrous Piercing and Entering into the Bowels of it ; as a learned Man of my Profession well observed. How poor People lived before the 43d of Queen Elizabeth, we are left in the Dark, and at a Loss to know ; but the better Opinion is, They lived upon the Charity and Benevolence of Religious Houses ; upon the Dissolution of Monasteries, a Multitude of poor People rushing in upon the Nation like a mighty Flood, which occasion'd the making the 43d of Queen Elizabeth, that general and beneficial Law.

The

The P R E F A C E.

The great and quick Demand for this Book of adjudg'd Cases and Resolutions concerning Settlements and Removals, not only shews the Use, but also the Necessity of such a Book; wherein all the Parishes in England are (or may be) one Time or other concerned. And this was the Occasion of adding the Collection, as an Appendix thereto, the better to give the Reader a compleat Knowledge of the Law therein.

The Cases which the Reader is presented with in the Appendix, are chiefly those that were adjudged, when that great Master of Law and Reason (the Basis of all
A 3 *Laws)*

THE PREFACE.

Laws) the late Sir JOHN HOLT, Knight, sat as Chief Justice in the Court of King's Bench, (as those in the Original were, when the Right Honourable the Earl of MACCLESFIELD had that Honour,) and (as these are) the latest Resolutions and Judgments (that are published, so they) are the surest and best, (as the Lord COKE truly observes) to assist the Student in settling his Judgment; and yet there are not wanting Persons to carp at, and find Fault with Collections of this Nature; but when the Usefulness of the Work, and for whom it is chiefly compiled, are considered, (to wit) for those who have neither Opportunity nor Will to purchase
or

THE PREFACE.

or peruse the voluminous Tracts from which the same is taken, it is not doubted, but that it will be sufficiently justified.

The READER will perceive some few Cases interspersed, that do not immediately relate to Settlements ; yet as they regard the Parish, or some of the Officers, or the Poor, it is hoped (as they are useful) they will be accepted with the others ; and as the ABSTRACT of the STATUTES relating to the POOR, will not be of less Use to the PUBLICK, they are added hereto, as are likewise those concerning VAGRANTS.

If these following Cases will be of any Service to the Gentlemen

The P R E F A C E.

that act in the Commission, who serve their Country at their own Expence, and for whom they were particularly designed ; the Publisher has his Ends, and the Reader the Profit.

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B. R. Trin. 1710.

1. **A** Man rents a House of 10 l. a Year, the House lies in two Parishes, he is a Parishioner where his Bed is, and where he lodges; but where a Man has a Shop in one Parish, and lodges in another, he is a Parishioner where he drives his Trade. Paying to the County Bridge gains no Settlement; for there all the County is liable, and he pays as one of the County, not as an Inhabitant of the Parish or Town where he lives.

A. has Land in *B.* but does not inhabit there, he shall be chargeable to the Reparations of the Church, but not to the Buying of Ornaments; for that shall be levied of the Goods of the Parishioners, and not of the Lands. Vide *Winch. Rep.* 53. and so adjudged *per Curiam.* Moor 554.

B.

B. R.

2 *Cases and Resolutions adjudged*

B. R. Mich. 1710.

The Parish of Rudwick and Cheddingford.

2. **BY** the 3d of *William and Mary*, a Servant must be hired a Year, and serve that Year to gain a Settlement.

A Servant is hired for half a Year, and after is hired for another half Year, whether that will gain a Settlement.

Lord Parker & Curia: The Original Contract must be for a Year. If a Man hires a Labourer, and gives him so much *per Week*, this gains no Settlement, because he works but six Days in a Week. And *per Lord Parker*, if a Man hires a Servant, and bargains with him, that he shall come within a Day of *Michaelmas*, and then says he agreed not for a Year, yet this Contract shall be taken for a Year; for it is apparent Fraud to evade the Statute. So if a Man lets his Servant go to see his Friends for a Week, or the like, this is no Interruption of the Service.

The

The Parish of Farnham.

3. The Act says, a Person to gain a Settlement must rent a Tenement of 10 *l. per Annum*; he rents two Tenements of 5 *l. per Annum* each; and *per Powell*, the Word Tenement is *nomen Collectivum*. Lord Parker: The Design of that Clause was, if a Person was of Ability and Competency to stock Land of 10 *l. per Annum*, although they were ten Tenements before, yet as to this Purpose, they are *Quasi* one Tenement; and so adjudged *per Powel* in another Case that came before him at *Launceston* Assizes.

Hill. 1710-11.

The Parish of St. Laurence and St. Mary's in Reading.

4. A Man is Warden for the Borough of *Reading*, and lives in a Parish within the Borough, and adjudg'd *per Curiam*, it gain'd a Settlement.

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A Scavenger or Constable gains a Settlement in that Parish where he lives, although his Office is not Parochial, but a Precinct Office, and confined to more Parishes than one.

Paying to a Scavenger's Rate gains no Settlement; for it must be a Parochial Rate. But Note; it does in *London*: So likewise Paying to the Land-Tax gains a Settlement in *London*. See this Case reported at large. *Lu. Ca.* in *L. & E.* 13, 14, 15.

The Parish of Newelm in Gloucestershire, and Rancom in Oxfordshire.

5. A single Man, though not his Family, gains a Settlement by renting a Wind-Mill of 10*l.* *per Annum*; for a single Person may inhabit and dwell there, which a Man and his Family cannot. 2 *Salk.* 536.

Pasch. 1711.

6. **B**Y the Statute, an unmarried Person, having no Wife nor Child, hires himself for a Year, and lives the Year; he gains a Settlement.

The

The Parish of Antony and Cardigan.

7. A poor Man has a Daughter who is married, and has gained a Settlement elsewhere, hires himself for a Year, and serves the Year; & *per Curiam*, he is a single Person within the Meaning of the Act, though not expressly within the Letter of the Act.

The Meaning of the Statute was, that he might not bring any consequential Damage to the Parish, which he cannot possibly do here; and held the Man, notwithstanding he had a Child, gained a Settlement by Virtue of the Service.

The Parish of Sedgemore and Dulleton.

8. A Man rents a Piece of Land of 10 *l.* *per Annum*, but no House belonging to it; it gains no Settlement. The Statute says *coming with a Design to settle*, which

6 *Cases and Resolutions adjudged*

cannot be here ; for how can he be said to inhabit upon Land ?

The Parish of St. John Baptist in Peterborough, and Spaldin in Lincolnshire.

9. *Anne Smith*, a Child of a Year old, was intruded into the Parish of *St. John Baptist*, but born in *Spaldin*. It was said a Child gains no Settlement by being born in a Place, unless he is a Bastard, or his Father and Mother Vagabonds. *Lord Parker* : You say well ; but here it is made good by the subsequent Words *being last settled there*.

Mich. undecimo Q. Anne.

The Parish of Malden in Essex.

10. **B**Y *Lord Parker*, where there is a Town Corporate that has Sessions of their own, and the Justices within that Town make an Order there, if the Parties will appeal, they must appeal to the County

County Sessions, and not to their own Sessions, for then there would be an Appeal *ab eodem ad eundem*, there being, may be, the same Justices sitting, who made the Order.

The Parish of Crowland, and St. John Baptist in Peterborough.

11. The Order recites, 'That *Abraham Clyson* has intruded into *Crowland*, being last legally settled in *St. John Baptist*, having served there one whole Year, with one *John Diplaw*. Object. Not appear upon the Face of the Order, he was hired for a Year. *Curia*: It is said he was last settled there. The Justices need not alledge how he was settled there: And it being said he served a Year, the Law presumes he was hired for a Year; as where an Order is made for the Payment of Servants Wages, the Law presumes it to be for Husbandry Wages, unless the contrary appears.

Object. 2. Not said where he is likely to be chargeable, but it was said in the

8 *Cases and Resolutions adjudged*

Complaint, likely to be *there* chargeable but not in the Adjudication; but it was over-ruled: The Law must of Necessity suppose it to be in the same Place.

Saffron Walden *and* Little Hempstead *in* Essex

12. Two Justices make an Order, to which the Parish appeals: The Sessions set aside the Order; and it was moved by Counsel to quash the Order of Sessions, it not appearing it was upon hearing the Merits; for the Statute never intended that an Order, defective in Law, should conclude; and the Sessions have no Authority, unless it came regularly before them: *Adjournatur.*

Hill. 1712.

Queen *and* Inhabitants of Limehouse.

13. *John Holland*, a poor Person, complains to the Sessions, that he being a lame Seaman, and reduced to a very low

low Condition, and obliged to sell Part of his House, yet is charged with Nine Shillings *per Annum* to the Poor, and prays to be relieved of this Charge.

The Sessions make an Order to refer it to two Justices, and they to report it at the next Sessions.

The two Justices make a final Order.

Mr. *Whitaker* objected, the Sessions cannot delegate their Authority. *Curia*: They may make an Order to refer it to two Justices; but then they must report it at the next Sessions, and the Sessions must make the Order final: But that Formality not being observed here, the Order of the two Justices is ill; and it was quashed. *Vide Stile 154. Mod. Cases 87.*

Hill. 1712.

The Parish of Smalley in Derbyshire.

14. *Thomas Hobbs*, his Wife, and three Children, being removed from *Horsly* to *Smalley*, they appeal to the Sessions; the Sessions make an Order, reciting that,

10 *Cases and Resolutions adjudged*

that, Whereas it appears to them, upon hearing Counsel on both Sides, that the Boundaries of the Parish came in Question, and that they have no Power to enquire into that Matter. They set aside the Order of the two Justices; but the Sessions Order was here quashed; for, *per Curiam*, they have Power to inquire into the Boundaries of a Parish concerning Settlements.

Pasch. 1713.

Queen and Inhabitants of Needham-Market.

15. **T**HE Order removes a poor Person upon Complaint of the Overseers and Church-wardens of *Needham-Market*, that one *Sarah Cannum* has intruded herself into *Needham-Market*. And whereas it appears upon her Oath, she was last settled at *Quintins St. Mary's*; we therefore adjudge accordingly: These are to remove. Mr. *Whitaker*, Object. Not appear, that *Needham-Market* is a Parish, and

in the Court of King's Bench. 11

and the Statute expressly says Parish. Lord Parker. The Words *Overseers and Churchwardens* are sufficient, and make the Order good. *Object.* 2. Not said she rented a Tenement under 10 l. *per Annum.* Curia: The Words *last legally settled in* *Quintin* do import it, for if she had, she could not be removed. All the Cases are so, and this Objection has been several Times over-ruled.

Queen and Inhabitants of
Griffam.

16. The Order sets forth, that *Henry Tate* and his Wife do endeavour to intrude into the Parish of A. and are likely to become chargeable. These to remove.

Mr. Raby : Here is not a sufficient Complaint nor Authority for the Justices to found this Order upon; for they have no Power to send a Person away by an Order, unless he has actually intruded into the Parish. *Mr. Thompson* : The Order says he is likely to become chargeable; and how can he be so, unless he was
actually

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actually in the Parish. *Parker*. The Party being Poor is likely to become chargeable, and so is he likely to come into the Parish, he endeavouring so to do, as the Order says; the Words do not import he is actually come into the Parish.

And *per Curiam*, the Order was quashed.

Queen and Inhabitants of Monks-
risborough.

17. Mr. *Page* moved to quash an Order of Sessions, which ordered, that the Overseers of *Monksrisborough* should pay to one *Richard Dorset* 2 s. per Week for his Maintenance. *Object*. 1. Not said that they had any Money in their Hands. *Object*. 2. Not say that *Richard Dorset* is a Parishioner there. Quashed *Nisi*.

Trin.

Trin, Duodecimo Annæ.

The Parish of Langueren and Panteed.

18. **T**HE Justices make an Order to remove *Anne Morgan* and her Children; from *Langueren*, upon her Oath, that she was last settled in *Panteed*, her Husband being gone a Soldier. The Sessions quashed the Order; it not being upon the Oath of the Husband: But the Order of Sessions was quashed here, being set forth in the Order, The Husband was beyond Sea. *Ex Motione Magistri Probyn.*

The Parish of Wensfield and Middleton.

19. The Order sets forth, that *William Cook*, his Wife, and three Children have intruded themselves into the Parish of *Middleton*, being last settled in *Wensfield*; then it shews how he gained a Settlement, *viz.* That he became an Apprentice

14 *Cases and Resolutions adjudged*

tice to *J. S.* Mr. *Jefferys* objected : First 'tis not said by Indenture he became an Apprentice ; nor, That he served in that Parish ; said he became an Apprentice to one *J. S.* of *Middleton* : Now he may have an Estate in *Middleton*, and write himself of that Place, but live elsewhere. *Curia* : It is not necessary that the Justices should set forth their Reasons ; An Adjudication, That he was last settled there, is sufficient ; and the Court adjudged accordingly.

Queen and Wagstaff.

20. The Order sets forth, Whereas *William Wagstaff* is an Inhabitant and House-keeper in *Newport-Panel*, These are to require him to seal an Indenture of Apprenticeship between him and one *John Norris* a poor Boy, according to the Form of the Statute. *Object.* The Justices have no Authority but in Husbandry. *Curia* : The Order says he is a Person in all Respects qualified, and we will suppose in Husbandry, unless the contrary appears ;

in the Court of King's Bench. 15

appears; so in the Case of Wages, the Law presumes it Husbandry Wages *prima Facie*.

Queen and Inhabitants of Rockvill.

21. Whereas it appears upon the Oath of *Eleanor Jones* Relict of *Edward Jones*, That she and her Daughter *Mary* was last legally settled in *Rockvill*, who are likely to become chargeable; These are to remove. *Puckle* Counsel: Here is no Adjudication, That they are likely to become chargeable. *Curia*: The Words, *Who are likely to become chargeable*, are always the Words of the Justices. If it had been That they are likely to become chargeable; then it had been a Recital only, and the Words of the Overseers.

Queen and Inhabitants of Eversly.

22. The Order takes Notice, That *Thomas Polter* lately deceas'd, intruded in his Life-time into *Eversly*, and that he
was

16 *Cases and Resolutions adjudged*

last legally settled in *Hartley*. These to remove *Frances* his Wife, and her three Children to *Hartley*, as being settled there in Right of her Husband. Sir *Peter King*: The Order does not set forth, She has not gain'd a Settlement since elsewhere; for 'tis not a necessary Consequence, That she is now settled where her Husband was; for she might have gain'd a subsequent Settlement elsewhere, especially now, in Regard her Husband is dead; and it was quash'd *per Cur'*.

The Parish of Ashton and Silverston in Northamptonshire.

23. A Servant is hired at *A.* for a Year, his Master lives there Half a Year, then lives at *B.* another Half Year: Held the Servant is settled in the last Place, for the Identity of the Service is the same; and the Statute does not tie it down to one Place. If the Master had removed to several Places, the last Place where he lives forty Days, gains him a Settlement, agreeable to the Statute of King *Charles*.
Parish,

*Parish of Woborn in Bucks; and
Woking in Surrey.*

24. The Order removes *John Andrews* and his two Sons, one of the Age of twelve Years, another of eight Years. *Sir Peter King* moved to quash the Order, it not saying, The Children had not gained a Settlement elsewhere; for 'tis not a necessary Consequence, They are settled where their Father is, They being of Age to gain a Settlement themselves, and to be Apprentices.

Lord Parker: Seven Years is the Time allowed and no further; and is a necessary Consequence the Child is settled where the Father is: Quash'd.

Parish of Hunsdon and Malondon.

25. The Order removes *Henry Waller* and his five Children from *Malondon* to *Hunsdon*, who appeals. The Sessions confirm the Order, reciting, That a Certificate was conclusive only to the Parish

C

where

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where the Person went, and not to a third Place. The Counsel insisted it was not Law, and prayed it might be found specially; which the Justices refused: After two other Justices send him to a third Place. *Curia*: The Justices cannot send him to a third Place, for it would entirely evade the Statute. And *per Lord Parker*, If the Justices give an erroneous Judgment, and Counsel insist to have it found special, and they refuse; a Bill of Exceptions may be sign'd by Counsel, and bring the Matter *volens volens* into the King's Bench. See Case.

The Inhabitants of Wooten Rivers.

26. The Order recited upon Complaint made to us, two of his Majesty's Justices of the Peace: But did not say by the Churchwardens and Overseers; and it was quash'd *per Cur'*. *Object.* by Counsel, 'Tis made good by the Return, where it is said, The Complaint was made by the Churchwardens. *Curia*: The Order is the Record, and not the Return of the *Certiorari*,

rari, for the Justices have executed their Authority by signing the Order.

Mich. 1713.

Queen and Inhabitants of Uplin.

27. **M**R. *Earl* moved to quash an Order of two Justices, not saying in what County; but note the Clerk of the Peace in the Sessions Order had laid it in *Somerſet*. *Per. Cur.* The Clerk of the Peace can't cure a Defect in the Original Order.

2. *Object.* Not said they are Justices of the Peace; said *coram A. & B.* Justices of the County, but not of the Peace. Mr. *Gapper*: The Words subsequent, *Quorum unus*, do ascertain they were Justices of the Peace. *Cur.* There is a *Quorum* besides, in Commissions of the Peace: And the Order was quash'd.

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Queen and Inhabitants of Birmingham.

28. The Order removes *John Grift* and his Family from *Drayton* to *Birmingham*: Whereas it appears by Indenture, *John Grift* was settled in *Birmingham*. Mr. *Thompson*: They ought to have shewn how, for there must be a Service pursuant to the Indenture; but over-ruled *per Curiam*: Not necessary to shew how.

Mich. 1713.

Queen and Furnese.

29. **T**HE Justices at their Sessions discharged one *Philip Dallo* from his Master, a Glafs-bottle-maker.

It appeared, There was a Blank left for the Time he was to serve in the Counterpart of the Deed; but the Article the Apprentice signed was right.

Sir *Peter King*: If the Indenture be right, which the Apprentice sign'd, 'tis sufficient.

Sir

Sir *Peter King*: 'Tis for Nine Years :
The Law allows no such Term.

A Glas-bottle-maker is not one of the
Trades mentioned in the Statute ; and it
extends but to those according to the Case
of *The King versus Gately*. 5 *Mod.* quash'd
nisi.

Queen and Inhabitants of Man-
chester.

30. The two Justices make an Order
for the Overseers of the Poor to pay 2 s. a
Week to *Elizabeth Reddish*. Mr. *Lutwich* :
Not say she is poor and impotent ; other-
wise the Statute gives them no such Pow-
er. *Cur.* The 43d of *Elizabeth* does not
give them Power, unless they are upon the
Poor Rate. Let them shew Cause.
Quashed. See *Lu. Ca. in L. & E.* 220.

Mich. 1713.

The Parish of Dunsfold and Winsborough-Green.

31. **T**HE Case was this: A Woman marries a *Scotchman* who had gain'd no Settlement in *England*; but she before her Marriage was settled in *Winsborough*. The Order recites, 'That whereas *Archibald Player* a *Scotchman*, having gain'd no Settlement in *England*, and is now at *Dunkirk*; These are to remove her and her Child to *Winsborough*, the Place of her Settlement. *Whitaker* objected; Not appear the Husband had gain'd no Settlement in *England* or *Wales*, nor that he is out of the Kingdom, can't judicially take Notice of *Dunkirk*. *Parker*: "In all these Orders you must shew, That there is a Repugnancy.

Cur. A Foreigner comes into a Parish; he can't be sent to another: Although a Woman by Marriage follows the Condition of her Husband, yet she shall not be

put in a worse Condition: Her Husband is a Parishioner no where in *England*; must she therefore starve? and *per Cur.* The Settlement, which she had in her own Right, does still continue notwithstanding the Intermarriage.

St. Mary Ottery *in Devon* and
St. Mary's *in Bristol.*

32. Two Justices send a Person from *St. Mary Ottery in Devon* to *St. Mary's in Bristol*, and that he was last settled there, according to their Knowledge. Mr. *Fortescue* objected; The Order should have said, he was last settled there: An Order is a Judgment, which must be certain and positive: He might have been settled elsewhere, and they not know it. Quash'd *per Curiam.*

Shagforth *and Northbovey in*
Devon.

33. Mr. *Cruise* mov'd to quash an Order, there being no Complaint. Sir

24 *Cases and Resolutions adjudged*

Peter King: The Words of the Order are, Upon Hearing the Differences, Allegations and Proofs: Whether that did not amount to a Complaint. *Cur.* Held not; and so it was quash'd.

Earl said; A Rate, that is of it self good, may be quash'd; where it says, It shall be a standing Rate.

Hill. 1712.

*The Parish of Royden in Essex
and Hoxden in Hartfordshire.*

34. **W**HEREAS J. S. intruded into *Royden*, and was last settled in *Hoxden*. *Object.* Not said was likely to become chargeable; quash'd. 2d. We therefore order him to be conveyed to the Town of *Hoxden*. The Word *Town* is not mention'd in the Statute, but only *Parish*. *Quare.*

The

*The Parish of Easton and Burcot
in Oxon.*

35. The Sessions confirm the original Order : It began thus : Upon hearing the Appeal of *Burcot*. Mr. *Lechmere* : The Parish it self cannot appeal, but the Inhabitants ; so it is Nonsense and an Absurdity : But it must be intended the Parishioners, and can have no other Intendment.

Evans's Case.

36. An Order of Suppression for keeping an Alehouse. The County of *Flint* was in the Margin, but not in the Body of the Order, and quashed *ex Morione Edw. Northey Mil.* so adjudged in the Case of the Parish of *Downton* ; not appear in what County *Downton* is. *Somerset* in the Margin. *Curia* : It is good in a Civil Action, but not in an Order, which is a Judgment and must be certain.

Pasch.

25 Cases and Resolutions adjudged

Pasch. 1711.

Queen and Rutter.

37. **B**Y the Statute of the 5th of Q. Elizabeth, if an Apprentice and Master cannot agree, the Justices then have Cognizance. The Sessions make an Order, That the Master should be discharged from the Apprentic. Sir James Montague: Not appear that either the Master or Apprentic was there present, and cited *Saund. 314. Hawksworth's Case. 1 Mod. 287. 2 Vent. 174.*

Parker: The Master must be there. If the Matter cannot be made up, the Master must enter into a Recognizance to appear the next Sessions; and if he does not, the Recognizance will be estreated.

Pasch.

Pasch. 1711.

Weltham Magna & Parva in
Suffex.

38. **J.** S. is likely to become chargeable,
as we are credibly informed. No
Adjudication. *Parker*: It is the Belief of
another.

Trin. 1711.

39. **W** Hereas it appears, (not say unto,
&c.) ill: Whereas *Margaret West*, with her six Children, has intruded,
and will become chargeable, if permitted
to abide. *Branthwaite*: This is uncer-
tain: It may be Five or Ten Years hence.
Quashed.

Trin. 1711.

Queen and Inhabitants of Bradford:

40. **W** Hereas *J. S.* is likely to become
chargeable, not say to what
Parish. Quashed *per Salk.*

Parish

*Parish of Ringmere and Petworth
in Suffex.*

41. Whereas *J. S.* and his three Children, have intruded into *Petworth*, and their last legal Settlement was in *Ringmere*, and are likely to become chargeable. *Moor*: To quash. Not set forth the Ages of their Children. *Shelley*: Not necessary in this Case; for the Order says *they were last legally settled in Ringmere*, and then no Matter what their Ages are. *Cur.* of the same Opinion, and so not quashed.

Parker: I never knew a Poor's Rate quashed; if the Rate is not good, it is a meer Nullity, and you are not bound to obey it. See the above Case more fully reported, *Lu. Ca. in L. & E. p. 25, 26.*

Trin. 1711.

*The Parish of Whidale in Hart-
fordshire.*

42. *Whitaker* moved to quash an Order. Whereas *J. S.* was settled at *Whidale*, he having lived there for the Space
of

in the Court of King's Bench. 29

of two Years, as a hired Servant. *Object.* Ought to say he was hired for a Year, and served the Year; but over-ruled. *Parker:* Settled there as a Servant, sufficient.

*The Parish of Antony and
Cardigan.*

43. An Order quashed, because it concluded the Person shall be finally settled there.

*The Parish of St. George's in
Southwark.*

44. Whereas Complaint hath been made, not said by whom. Quashed.

The Parish of Newington.

45. Whereas *J. S.* has intruded into the Parish of *A.* and is likely to become chargeable: These are to remove him with three Children. Quashed as to the Children; for they have removed more than is complained of.

The

The Parish of Monkrisborough.

46. Two Justices adjudge a poor Person settled in *Aylesbury*, as being an Apprentice there ; Good *per Parker* ; tho' *Darnell* objected, It is not actually said he was an Apprentice.

Pasch. 1712.

Parish of Mitton.

47. **W**Hereas upon Complaint of the Churchwardens and Overseers of the Poor, *J. S.* has intruded, and is likely to become chargeable : These to convey ; ill. No Adjudication ; for the Justices must adjudge themselves. *Ex Motione Herins.*

Pasch. 1712.

*Queen and Inhabitants of Wigtown
in Cumberland.*

48. **W**Hereas *John Luton* is settled in *Wigtown*, and is intruded into the Parish of *A.* These to remove him
and

in the Court of King's Bench. 31

and two Children. *Object.* Not say his Children; for they cannot gain a Settlement, by Reason of their Parents, unless said to be theirs. The next Day, between the Parish of *Barrow* and *Engleby* the same Objection was made; but the Court held it two nice a Distinction; must necessarily be intended to be his.

Pasch. 1712.

Clypton, St. Mary's and Ravistock
in Devon.

49. **T**HE Order recites, Whereas *John Saunderson* and his Wife are last settled in *Clypton*: These are to Order you the Churchwardens of *Clypton* to repair to the Parish of *Ravistock*, and to relieve them, being so sick that they cannot be removed. *Curia*: The Justices have no Authority to send for Officers out of another Parish, but are bound to maintain the Poor as long as they continue with them. And *per Powell*, not Parishioners to be relieved till they are carried to the Parish. Quashed.

Queen

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Queen and Inhabitants of Brokebank in Cumberland.

50. Whereas there is a Dispute concerning Purveyors Rates, we order that they be confirmed. *Lutwich* : *Non constat* what the Word signifies, nor whether it does extend to their Jurisdiction. Quashed.

Trin. 1712.

Queen and Inhabitants of Eaton in Salop.

51. **W**Hereas two of his Majesty's of Peace, (Justices left out,) but it was right in the original Order, but left out in the Return of the Clerk of the Peace. *Lutwich* moves for an Amendment. *Curia* : We cannot do it, we can fine the Clerk; take out a new *Certiorari*.

Hill. 1713.

Queen and Halifax.

52. **T**HE Sessions make an Order for the Father-in-law to pay so much *per Week* to his Daughter-in-law. Sir *Peter King* objected, Not said he is of sufficient Ability. *Parker*: Every Body is supposed, *prima facie*, to be of Ability to maintain himself and Family, but no farther. Quashed.

Suppose she had had three Husbands, Who shall contribute then? Sir *Thomas Powis*: The last Husband's Father.

Hill. 1713.

Braiton and Usley in Leicestershire,

53. **T**HE Justices make an Order which is to continue till Sessions, and then the Sessions make an Order, and both the Orders were quashed.

1. They have no such Power to make an Order till Sessions. 2. The Sessions making

D

34 *Cases and Resolutions adjudged*

making an original Order, is void likewise ; both quashed. *Lawrence Carter* Counsel.

Trin. 1714.

The Parish of Chesham and Great Messington in Bucks.

54. *Sarah Barnes*, Spinster, lives a hired Servant at *Chesham*, a whole Year, after goes and lives with her Father, a Cottager, and is hired for a Year, and her Father is to give her Ten Shillings a Year, and make what Vails and Profits she can. The Justices at Sessions held she was settled at *Chesham*, and that her Hiring with her Father was a fraudulent Hiring, and not within the Meaning of the Act of Parliament.

Curia econtra held she was well settled in *Messington*, and that her Father might well hire her.

55. A Person that is a Lodger, yet his Servant gains a Settlement, *quod non fuit negatum.*

Queen

Queen and Inhabitants of Mells.

56. The Sessions quashed the original Order, for Insufficiency, when it was good, and the Sessions Order quashed here for that Reason. *Ex Motione Magistri Gapper.*

Cases relating to Bastards.

Mich. undecimo Annæ Reginae.

The Parish of Southell and Needwell in Southampton.

57. **W**HEREAS a certain Woman was brought to Bed of a Female Bastard Child in *Needwell*, and after dropt in *Southell*: These to convey.

Sir Peter King obj. Not say who this Woman was.

Parker: You must either name her, or say you do not know her. As where a Person is indicted for stealing the Goods of a Person unknown, you must aver it to

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be a Person unknown; but for stealing the Goods of a certain Person, without saying unknown, would be ill; and it was quashed.

Mich. undecimo Annæ Reginae:

Queen and Knott.

58. **M**R. *Cross* moved to quash an Order of Bastardy. Not said one of the Justices was of the *Quorum*. *Parker*: The Statute says, one must be of the *Quorum*. *Pasch. 1712. Queen ver. Cotton.* Order quashed for the same Reason.

Queen and Cash.

59. Not said the Child was born in the Parish; and by the Statute, the Justices cannot make an Order to compel a Man to contribute towards the Maintenance of a Bastard Child, but in Case of that Parish where the Child was born. Quashed.

Queen

Queen and Ridge.

60. The Defendant was compelled by the Justices to give Security by Bond. *Parker*: The Justices have no such Authority. If the Party refuses, upon Request, they may bind him over to the Sessions. *Girdler* Counsel.

Queen and Jefferys.

61. The Woman swears that one *Jones* got her with Child. A Warrant was given to the Defendant, being Constable to apprehend him. The Constable lets him escape.

The Justices make an Order for him to pay 3 *l.* towards the Expences the Parish have been at, and one Shilling *per* Week towards his Maintenance, and the Mother to pay 6 *d.* *per* Week. Now this Order was quashed, as to the Constable; for the Justices have no such Authority; but good, as to the Mother, for they have Power to

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charge either the Father or Mother. *Ex*
Motione Lechmere and Jefferys.

Pasch. 1711.

The Parish of Cuddington.

62. **T**O keep the Child until he could
gain his Livelihood, ill, for the
Incertainity.

2. Not appear the Child was born in
the Parish; quashed *per Darnell.*

Pasch. 1712.

Queen and Cripps.

63. **T**WO Justices make an Order of
Bastardy. The Party appeals;
the Justices at Sessions set aside that Order,
and make an original Order, and held
well, for they have an original Authority.

Croke Car. 338. 1 Mod. 228.

If there is no Appeal, it is conclusive.

Object. 2. Whereas upon the Oath of
Anne Chubb, it appears the Defendant was
the Father, but don't say upon Examination
tion

tion. It may be made behind his Back. *Powell* Justice: We cannot presume Justices will make Orders without Notice; over-ruled.

Object. 3. Said the Party appealed at the General Sessions, but not at the next General Sessions, and so have not pursued the Words of the Statute. *Parker*: This is Matter of Fact, and if it were so, the Party should have made the Objection at the Sessions; and he cited a Case which he moved when Counsel. The Parish of *Rugby* in *Leicestershire*. The Order was made the 9th of *July*: The Party appealed the next *Michaelmas* Sessions, so that a Sessions intervened, but over-ruled; and if the Objection had any Weight, it would have prevailed then.

Object. 4. The Justices order to pay Forty Shillings for reimbursing the Parish the Charges they have been at, which is before the Order was made; but over-ruled. *Parker*: If I oblige myself to pay 10*l.* at a Day past, that don't vitiate the Bond, but the Money is due presently, and I am obliged to pay it immediately.

Queen and Smith.

64. Two Justices make an Order for him to pay 40 s. for Money disbursed, but don't say by whom. *Curia*: It is necessarily intended by the Churchwardens.

Object. 2. To pay one Shilling a Week till the Child is eight Years old, should be as long as the Child is chargeable; possibly he may gain a Settlement, or a Person may give him an Estate, or the Father may take him. *Curia*: A remote Possibility: As to the Father's taking him, he ought to have done it at first; and by the suffering the Order to be made, it shall be deemed a Refusal in Law: Besides, he shall not be then suffered; he may sell him, or make away with him, as too often happens.

The Parish of Abingar and

St. Martha in Surry.

65. A Woman big with Child of a Bastard, is removed from *B.* to *C.* she is brought to Bed at *C.* Upon Appeal the
Sessions

Sessions set aside the Order; held the Bastard Child shall be sent to *B*, notwithstanding it was born at *C*. for the Order was compulsory, and they could not help themselves during the Order was in Force,

Pasch. 1711.

Jane Grey's Case.

66. **R**ESolutions of the Court concerning the Birth of a Bastard. If the Officers are carrying a Person by Virtue of an Order of Removal, and she be delivered on the Road *in transitu*, the Bastard shall go with the Mother where she is going, by Virtue of the Order, notwithstanding the Birth.

2. If the Woman had come into the Parish by Privity and Collusion of the adverse Officers, the Bastard gains no Settlement, notwithstanding its Birth.

3. If there be an Order made, and before that Order can be served, the Bastard is born, it gains no Settlement, but shall be sent with the Mother.

Sir

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Sir R. Raymond: If a Woman big with Child be sent from *A.* to *B.* after the Order is quashed, the Bastard shall go back with the Mother; for the Parish was concluded by the Order during it was in Force, and was not capable of sending her before.

Pasch. 1714.

Queen and Thorn.

67. *Obje^t.* 1. Not appear the Child was born in the County.

2. Said the Examination was taken before one or two of us Justices of the Peace. Must be before two.

3. To keep the Female Bastard when it shall be born, so repugnant, how can it be known whether it is a Male or Female, before it is born? But the Court held this last Objection to be but Surplusage; but quashed for the two first Objections.

Hill.

Hill. 1713.

Cases relating to Settlement.

68. **T**HE Inhabitants of *Stokelane* and *Doltin*, the extraparochial Place adjudged.

A Person gains a Settlement in *Stokelane*, after wanders into *Brucum-Lodge*, and lives there as a Covenant Servant, then goes to *Doltin*; the Justices send him to *Stokelane*, adjudging him to be last settled there, having, as they thought, no Authority to send him to *Brucum-Lodge*, it being an extraparochial Place.

Quar. 1. If the Statute of the 13th and 14th of King *Charles* shall be taken generally, or only to those particular Places mentioned in the Statute. Held it extends to all generally, or else all *Wales* would be excluded.

2. The great Question was concerning the Explanation of this Statute. *Curia*: The Act of 13th and 14th of King *Charles* was designed to give Relief to those Places

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Places which were not within the Reach of the 43d of *Elizabeth*, and that the Word *Place* was implied and contained under the Word *Village* and *Township*; and the Justices may exercise the same Power and Authority in those Places as in Villages and Townships, and may send poor Persons to those extraparochial Places, and appoint Officers upon Complaint made to them.

3. They held the Matter in Dispute was not within the Statute; for the Order says he served in a Place call'd *Brucum-Lodge*, which is presumed to be a single House; Should have said Village or Township to bring it within the Act.

If they could send him back to *Stoke-lane*, having gain'd no Settlement in *Brucum-Lodge*, held *per Curiam* they might; for the Act intends such Place where he was last legally settled, and on which the Statute can operate.

Mr. *Fortescue* Counsel. A Man might at Common Law gain a Settlement any where, and could not be removed, unless in the Case of Vagrancy. The Statute of

39th of *Elizabeth* is the first Statute that mentions the Word *Settlement*.

The first Day a Man came into a Parish, he was a Stranger, second Day he was a Guest, the third Day he was an Inhabitant, which now a Days is a Parishioner. Before the Dissolution of Monasteries, the Poor was maintained by the Clergy, and out of the Tithes which arose out of the Parish. And at Common Law, a Settlement did imply no more than the House and Home, and Habitation of the Party.

By *Holt* Chief Justice: If a Place is extraparochial, and has not the Face of a Parish, the Justices have no Authority to send any Man thither; and so it was resolved in the Case of *Sir John Osborne*. Possibly a Place extraparochial may be taxed in Aid of a Parish, but a Parish shall not in Aid of that. This is *Casus omissus*. The Order was quashed.

But Note, In the Case of *Stokelane* and *Dolton* it was adjudged by *Parker* C. J. and the whole Court, that by Virtue of 13 & 14 C. 2. c. 12. the Justices may
exercise

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exercise the Power given by 43 *Eliz.* and that Act, in all extraparochial Places containing more Houses than one, so as to come under the Denomination of a Village or Township. *Ho.* 509.

If the first Order be naught, no subsequent Order on an Appeal can make it good. *Ho.* 508. By 8 & 9 *W.* 3. a Certificate may be given from one Parish to another, acknowledging the poor Person therein named to be their Parishioner, and 'tis said such Certificate-Man is not removeable till actually become chargeable; and the Order of Removal of a Certificate-Man ought to adjudge him to be actually chargeable: And in the Case between the Parishes of *All Saints* and *St. Giles* in *Northampton*, it is said that the Certificate concludes the Parish giving it only against the Parish to which 'tis given: But in the Case of *Honiton* and *St. Mary-Axe*, 'tis reported the Certificate concludes the Parish giving it as to all the World. 2 *Salk.* 535. And by 9 & 10 *W.* 3. c. 11. It is declared, that the Person who shall come into a Parish by such Certificate,
I shall

shall not be adjudged to have procured a legal Settlement, unless he shall, *bona fide*, take a Lease of 10 *l.* per *Ann.* or shall be legally placed in, and execute some annual Office in such Parish. Persons bound Apprentice, or being hired Servants to one who came into a Parish by Certificate (not having afterwards gain'd a Settlement) shall not gain a Settlement there, by Reason of such Apprenticeship, or Hiring, or Serving afore-said. 12 *A. c.* 18. And by 3 *G. 2. c.* 29. Certificate Persons becoming chargeable, and being sent back, the Overseers shall be reimbursed such reasonable Charge as they shall have been at in maintaining and removing such Person.

Pasch. 1712.

*The Parish of Ordenham and
Henden in Middlesex.*

69. **A** Poor Person hires himself for a Year, and before the Year expires, he marries : If by the Intermariage

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riage he is intitled to the Benefit of the Statute to gain a Settlement? See 77.

Powis: The Word, *Such Person*, in the Act, intends only an unmarried Person at the Time of the Hiring.

Powell: A Servant is not restrained from marrying; and *per Curiam*, It gained a Settlement.

Darnell cited a Case, which was referred to the Judge of Assize at *Launceston*;

Where a Woman, that had a Bastard, was a single Woman to gain a Settlement by Virtue of a Hiring for a Year and Service; for no Charge can happen to the Parish, the Bastard being settled where it is born.

Mich. 1711.

Parish of Gayton and Milwich in Staffordshire.

70. *J.* S. being chosen a Parish Clerk by the Parson, and serv'd for several Years, and receives his Fees and Duties. The Question was, If it gain'd a Settlement.

ment. *Jefferys* : This is not an annual Office, unless he comes in by the Consent of the Parish ; for at this Rate, the Parson may put him in one Day, and put him out another ; and so bring an infinite Charge upon the Parish. A Parish shall not have a Person thrust upon them *volens volens*, as in the Case of a Deputy Constable. *Curia* : This is not an Office only, but a Freehold, and a *Mandamus* lies to restore him, and 'tis a Parish Office ; for he has so much of every Person ; and has the Care and Custody of the Ornaments of the Church. 1 *Lev.* 80. 'Tis true, If he is poor, and has a Family, they may remove him ; but, if they let him continue a Year, none can remove him ; for altho' he came in by the Parson only, yet the Parish paying him, 'tis a Consent and Approbation ; and by this subsequent Act of theirs, the Law adjudges him in by the Concurrence of the Parish.

Relating to Overseers and Church-wardens.

The Inhabitants of Ware and Petit, Executor of Tho. Town.

71. Upon Complaint of *Thomas Petit*, Executor of *Thomas Town*, Overseer of *Thane*, in the Year 1699, and that he had expended the Sum of sixteen Pounds in the Execution of his Office, and is not yet reimbursed. The Sessions order all Parties concerned to attend three Justices, and they report it to the next Sessions; who report, that the Sum of sixteen Pounds was actually laid out, and that it has not yet been repaid; and that it ought to be paid to the Executor. The Justices at the Sessions confirm the said Order; which Order was quash'd in B. R. For 1*st*, The Overseers are not bound to lay out Money out of their own Pockets; for there is Remedy given by the Statute, viz. by weekly Taxation; and no Rate can be made to reimburse them, as it was adjudged

judged in *Townley's Case* some Years ago ; where a *Mandamus* went, but upon the Return it was held ill, and quash'd : And the Statute gives no provisional Remedy, but says, If there be any Money left in the Hands of the Overseer, to be transmitted over to the Successor. Besides, in this Case there would be a great Inconvenience ; for the Money in this Case has been due thirteen Years ago : And a Person who is now become a Parishioner, would be liable to contribute to a Debt, when perhaps he then lived forty Miles off : And by *Potter's Judge*, Those ought only to be contributory, who were Livers there the Year before, and none else. Counsel Mr. *Darnell* and Mr. *Fortescue*.

Mich. undecimo Q. Ann.

Hill. 1712.

The Case of the Overseers of Ely.

72. TWO Justices made an Order to compel the present Church-wardens of *Ely* to pay to the two precedent Ones, or their Executors, the Sum of 40*l.*

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Quash'd *per Cur.* Have no such Authority ; *Ex Motione* Miller.

Concerning Vagrants.

Mich. 1713. B. R.

Queen and Inhabitants of White-chapel.

73. **T**WO Justices in *Buckinghamshire* reciting, Whereas *Moses Willoughby* and *Joseph Willoughby* were taken wandring in *Newport-Panell* ; and being punished according to the Statute, These are to convey them to *Great Dalby* in *Leicestershire*, being last settled there. *Mr. J. Powis* : This Order is ill ; not said the Place of their Birth could be found, for they must be sent thither, if that can be found ; if not, where they were last settled, if that can be known ; if not, then to the Place where they last past thro' unpunish'd : But note, this Objection was cured ; because the Justices in *Leicestershire* sent them to *Whitechapel* where they were born. *Parker :*

Parker: Whether or no they should not have sent them back to *Newport*? being sent to them by a wrong Pass.

Note; This Order was quash'd for a Fault in the Caption, Where it was directed to the Overseers and Church-wardens of *Whitechapel* in *London* or *Middlesex*: It not appears in what County 'tis in; there may be two Parishes of the same Name in both Counties. Quash'd.

Note; By the 5th G. 2. c. 19. the Justices are empower'd to rectify Defects of Form on Appeals, and may then proceed to determine them.

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Mich. 1714.

Anno primo Georgii Reg'.

74. **S**IR Thomas Parker Chief Justice,
Sir Littleton Powys, Sir Robert
Eyre, Sir John Prat, Sir Thomas Powys
remov'd : Sir John Prat first came to
Court, November 23.

*The Parish of St. Saviour's and
Bromley.*

75. On an Appeal, the Sessions set aside
the Order of the two Justices, for Insuffi-
ciency. Sir Robert Raymond: Should set
forth the Cause of the Insufficiency in the
Order.

Cur. Not necessary : Admitting it is
not necessary ; yet here is a material Ob-
jection on reading the Order. The Order
sets forth, Whereas *Jane Grey*, and her
Child, was last settled in *Bromley* : Not
said, she was unmarried ; for by joining
her Child with her, 'tis a strong Presump-
tion

in the Court of King's Bench. 55

tion she was; then she should be sent where her Husband was settled; for a Woman cannot gain a Settlement from her Husband, during the Coverture, agreeable to the Case adjudged *Trin. 3 Anna.* The Parish of *Sevenokes* in *Kent.* *Anne Christmas*, sent by an Order, being born there of the Body of *J. S.* single Woman, and quash'd; not saying, she was not a Bastard; upon a strong Presumption, she was; although the Child might have been born after the Death of the Father.

The Case of Christ-church Hospital.

76. Where an Order was made upon the Parish, to provide for a Child, who was a Foundling. Set aside; not averring the Parents were unknown.

Parker : These two Cases go upon different Reasons: For where-ever an Order is made upon a particular Reason, as the Birth in the One, and the Foundling in the other Case; it must appear to be clear and indisputable: But in the Case at

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Bar, let the Woman be married or not, 'tis all one ; it being expressly said, She was last settled there ; so take her to be married, she has gained a Settlement there, in her Husband's Right ; if not married, then in her own Right. The Name of a Man is a good Description of him ; why not in the Case of a Woman ? Besides, this is Matter of Fact, and might be insisted on at Sessions ; 'tis too late now, we must judge upon the Order itself ; in which there is no Absurdity nor Contradiction.

St. Saviour's *and* Sr. Lionell Backchurch.

77. A Servant marries within the Year and continues the Year ; held a good Service within the Statute ; for the Statute don't say he shall continue so all the Year ; but say, unmarried at the Time of the Hiring. See 169.

The

The Parish of Shellingford. The latter End of King William.

78. **M**arrying within the Year a good Cause to turn him away : If he continued, a Settlement.

The Parish of Ordenham, the same Case as the present Case, adjudg'd Pasch. 11 Anna.

The Parish of Edleston in Leicestershire.

79. A poor Man hires himself to a Warrener, and lives all the Year into eight Weeks ; during which Time he lies at a Lodge. 1st, Held *per Cur.* That was no Interruption of the Service. 2^{dly}, The Statute only intended an Identity of Service *quoad* the Master, not *quoad* the Place ; and therefore where-ever he lived the last forty Days, it is a Settlement within the 14th of King *Charles II.*

Pepper

**Pepper Harrow and Frencham in
Suffex.**

80. *A.* is hired the 3d of *October* to serve till *Michaelmas* following ; and at *Michaelmas* the Master says, stay two or three Days and I will pay you. The Justices at Sessions adjudge him settled according to the Hiring. The Order being recited specially, and brought up to the King's Bench ; it was moved by Mr. *Bonwick* to quash it ; for that the Justices have erred in Point of Judgment : They having adjudged, That a Man may gain a Settlement, although he does not serve a Year. The Statute expressly says, There must be a Hiring and Service, which is not in this Case, and no Fraud appears upon the Face of the Order, which ought to appear, or else the Court can't adjudge it to be so.

Mr. Reeve econtra.

At this Rate there would be no such Thing as a Settlement ; every Person would hire a Servant two or three Days
after

after Quarter-day, purely to evade the Statute. The Case of a Copyholder, where, by the Custom, a Tenant may make a Lease for a Year, and he makes a Lease for a Year, within a Day; and so from Year to Year, excepting a Day, as long as he should live; and held a plain Shift to evade a Forfeiture.

Cur. The Justices confirming the Order do import a Fraud; and adjudged accordingly. Reported in *Lu. Ca. in L. & E.* 293.

St. Saviour's Southwark *and* St. Catherine's.

81. *John Floyd* and his Wife live and have gain'd a Settlement in St. Catherine's, and have several Children there, which have gain'd no Settlement elsewhere. The Husband dies; and the Wife after his Death rents a Tenement of 12 l. *per Ann.* The Question was, Whether the Children shall not be sent to her. The Parish of *Cumber and Milton*, Pasch. 2 Q. Anne. The Father settled in *A.* after settled in *B.* the Children shall go with him.

Pasch.

Pasch. 11th of King William.

82. *A.* Marries *B.* a Widow : The Children, which she had by her former Husband, shall be sent to her, being under seven Years of Age, and shall continue with her till that Age.

Mr. Knot argued, There was no Difference between the Father and Mother, for the one is as liable as the other; they are her Children as well as the Father's, and she is Guardian by Nature, she does communicate an Interest and Right to her Children; they are dependant on her, and participate of her Nature. 'Tis true, This will not hold where a Widow marries; for there she gains a new Settlement in Right of her Husband, and not in her own Right; and the Children in that Case shall be settled where she was settled before. The Court held there was no Difference between a Father and Mother; the Mother was as near, and bound as well as the Father to provide for the Children, by the Law of Nature as well as our Law.

Bonwick :

Bonwick : Suppose the Woman, when a Widow, had hired a Servant ; after marries, and the Servant continues after the Marriage for the Year ; the Servant would have gain'd a Settlement. *Quare de hoc* : For by the Marriage, the Service *quoad* the Woman is determined, all her Power and Authority being transferred over to her Husband, and she has no Occasion of Servants as she had before : Then how can it be said to be the same Service ; and the Statute says, There must be a Hiring and Service for a Year, which is not here ; the Service being to the Husband by the Intermarriage, who is a Stranger to the Contract.

Renting 10 l. per Ann. and forty Days Residence, gains a Settlement : *Quod non fuit negatum per Cur'.*

Bishop Mins and Southmorton.

83. The Order ran thus : *Memorandum*, The Churchwardens complained to us, two of his Majesty's Justices of the Peace, that *Thomas Sloe*, *Jane* his Wife, and his
4 Daughter

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Daughter have intruded into your Parish of Southmorton, and are become chargeable; and whereas it appears to us, the Allegation is true; these are to convey. The Sessions confirm the Order, setting forth, that *they are likely to become chargeable*. Mr. Fortescue objected; 'Tis said *intruded*; but not said *contrary to Law*, nor that he did not rent a Tenement of 10 l. per Annum. Sir R. Raymond: The Word *Intruder* is always taken in a bad Sense; besides, 'tis said actually *chargeable*; and no Matter how he came then into the Parish; over-ruled.

2d Object. And *are chargeable*, the Words of the Justices; and then, there is no Complaint made by the Overseers and Churchwardens: But held well *per Curiam*.

Parker: To make it good we will presume they were the Words of the Churchwardens or the Justices, as it serves to inforce the Order; the Words standing indifferently, and may be taken the Words of the Justices, as well as the Churchwardens, and so *e converso*.

3d Object. 'Tis said upon Examination the Allegation is true in the singular Number; whereas the Complaint was touching three Persons, Father, Mother, and Daughter, and so *non constat* to which it refers.

Parker: 'Tis but one Allegation consisting of two Branches; held well.

The Sessions Order confirms the Order of two Justices, setting forth that the Family is likely to become chargeable; whereas the original Order says *actually chargeable*, and so cannot be supposed to refer to the same.

Parker: To what Purpose will you quash the Sessions Order; you have lost the Benefit of Appeal. Besides, I hold it to be well, for it is a Recital of the Substance of the original Order.

Spawling and Burnham.

84. *John Pool* lives a hired Servant at *Spawling* for a Year, after hired by Covenant in *Burnham* for a Year, liv'd there all but three Weeks, when he voluntarily parted from his Master, who deducted
three

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three Shillings of his Wages. The Justices adjudge him settled in *Burnham*. The Order being returned up into the King's Bench, it was objected the Justices erred in adjudging him settled in *Burnham*, having not served a Year. Mr. Page : It is said he was a Covenant Servant, which *ex vi Termini* does import by Deed, and then his Going away cannot discharge the Covenant.

Curia : Here is no Manner of Fraud expressed, or appearing by a necessary Implication. It is not within the Words of the Act nor the Meaning. Can a Man compel his Servant to gain a Settlement, *volens volens* ; for whose Advantage is it ? the Servant's or the Master's. As to the Covenant, that it was by Deed, and so the Service continued, perhaps he might bring Covenant ; and as to that Point, the Service continued, but not *quoad* a Settlement, where the Statute saith he must serve for a Year, which is not in this Case. *Vide* 3d and 4th of K. William, cap. 11.

The

**The Parish of Misserden and
Painswick.**

85. *Misserden* sends *Jeremy Hooper*, his Wife and Children to *Painswick*, and the Sessions on the Appeal discharge the Order. Then the same Persons are sent by another Order to *Brimsfield*, as the Place of their Birth. *Brimsfield* appeals, and then the Sessions Order recites the whole Matter of Fact, which is. *Jeremy Hooper* is an Apprentice by Deed, to one *J. S.* a Butcher, and there is a parol Agreement to live one Fortnight at his Father's House, and another Fortnight at his Master's. The Order takes Notice, he did not live Forty Days at one Time in one Place, but concludes he was settled at *Painswick*, different to the former Sessions Order. Serjeant *Birch* moved to quash the Sessions Order, it being founded on an erroneous Notion, and the Conclusion will not warrant the Premises; for the Statute says there must be an Inhabitaney as well as an Apprenticeship for forty Days at least. The Court was

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was of Opinion to quash the Sessions Order, and a Rule to shew Cause the first Day of the next Term. *Note*: It was said a parol Agreement will not do; the Statute says expressly *by Deed*. The Reason why he would quash the Sessions Order was this, If that be quashed, then the Family would be saddled on *Brimfield* on the Account of their Birth, and cannot appeal again, it being too late.

Northdipley and Wooten-under-hedge.

86. *George Dicks* rents an Alehouse, of *5 l. per Annum*, at *Lady-Day* last for a Year, and in *May* following rents a Piece of Land of *6 l. per Annum*, from *Lady-Day* last past, but did not occupy it, or come into it till *May* following, it being heined up ever since *Lady-Day*, held it for two Months, and then ran away.

1. Held it was not necessary the *Messuage* or Tenement should be rented of one Person, but be it rented of several, yet in him it is but one, and the Statute is satisfied

in the Court of King's Bench. 67

satisfied, he being of Ability to be trusted with a Tenement of 10 *l.* per Annum.

2. The Running away did not alter the Case, he being still liable to pay the Rent, the Contract still continues; and living there but forty Days, the Contract being for a Year, it is good. The Statute says *renting a Tenement of 10 l. per Annum*, but does not say for what Time; as to that it is silent.

Parker: If he had took it for a Month, it had not been a Settlement, for there, altho' he pay a Rent proportionable to the Year, yet he is not thought of Ability, or sufficient to be trusted with it for a whole Year. Counsel Mr. *Probyn* and Mr. *Cox*.

Stoke-Cleming and Bury-Pomroy.

87. *A.* is an Apprentice to *J. S.* who is a settled Inhabitant, and has a Piece of Land in *Cleming*, but goes after to *Pomroy*, where he has no Settlement, but the Apprentice lived there the Residue of his Time; and if he gain'd a Settlement was

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the Question : The Court inclinable he had. *Adjournatur.*

*Millbrook and St. John's in
Southampton.*

88. A Person is removed from *Millbrook* to *St. John's* by an Order bearing Date 12 Day of *February*, and they appeal the *Trinity* Sessions. Now Mr. *Cross* moved to quash the Order, there appearing to be an intervening Sessions, and so not within the Act of Parliament.

Parker & curia : You cannot take this Objection now it is Matter of Fact, and perhaps the Order was not served till after the Sessions : Should have made this Objection then ; it is too late to make it now. Not quash'd.

*The Parish of Uppoterce and
Dunswell in Devon.*

89. A Woman is settled in *Dunswell*, after marries with a Person who is a Runnegate, and has gained no Settlement, as appears,

in the Court of King's Bench. 69

appears, any where else, comes into the Parish of *Uppoterce*, and dies, and upon his Death-bed he declares he was born in *Wincanton*; two Justices send his Wife to *Dunswell*, where she was settled before the Marriage.

Curia: Where it appears the Husband in his Life-time has no legal Settlement as can be found, there the Marriage shall not put her in a worse Condition than she was before, and is all one, as the Case of *Scotchman* and a Foreigner, and she shall not lose her former Settlement.

2. Although her Husband was born in *Wincanton*, and may be settled there, yet his Wife cannot be settled nor sent thither, she never having been in that Place: As where a Man has Land in a Parish, yet if he does not actually enter upon it, and continues for some little Space of Time, he cannot be sent thither by an Order; for how can he be said to be settled in a Place where he never was; so here, altho' the Husband might have been settled in *Wincanton* for ought appears, yet his Wife having never been there, she cannot be

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sent thither by a Parity of Reason. Then Mr. *Fortescue* objected to the Order, Whereas it is said upon hearing the Differences of the Parish, not said upon Complaint. *Curia*: It does amount to a Complaint.

2. Said the Place of his legal Settlement, not said last legal Settlement. *Curia*: It is well, for legal Settlement does import as much; for how can it be said he was legally settled there, unless he was last settled there.

Linton Episcopi and South-Morton.

90. The Justices make an Order, and adjudge the Family to be settled in such a Parish; after at the Bottom of the Parchment it began thus; *Whereas upon Complaint that such an one has intruded, These are to remove*, and the Justices Names put to the Order. Now it was objected this was a void Order, there being no Justices Names at the first Part, and although it was at the
End

in the Court of King's Bench. 71

End of the Order, yet the last Part did contain no Adjudication. *Curia* : It is well, it being upon a Piece of Parchment, and so refers to the Whole.

Hill. 1714.

The King *and* Painton.

91. **T**HE Statute of 20 Car. 2. c. 6. *sect.* 6. relating to Land settled in Feoffees to repair the Highway. The Order sets forth the Feoffees made a Lease of it for 17 *l. per Annum*, then there comes another Order setting forth the Land was let under Value, and that the Feoffees were negligent in their Parts; and farther Order that *Painton* should deliver up the Lease. The Court were of Opinion it might be set aside, but there must be Fraud and Contrivance set forth in the Order, that the Tenant had Notice of it, or was privy to it, and took it with such a Design, or otherwise it cannot. *Vide Moor Rep.* 560.

*The Parish of Mifferden and Painf-
wick, ante p. 65.*

92. *A.* is bound Apprentice, and cove-
nants between the Master and Apprentice,
that one Quarter of the Year he shall live
with his Father, the other with his Ma-
ster, but did not live forty Days at a
Time. *Object.* A parol Agreement can-
not avoid a Deed: It is no Defeazance,
here is no Fraud alledged to evade a Set-
tlement. *Curia.* It is said he never serv'd
for forty Days at a Time. *Prat Ch. Just.*
Tho' a parol Agreement cannot discharge
the Deed, yet it is sufficient Evidence to
prove a Fraud; but not living forty Days
at a Time held no Settlement.

*Pasch. An. Primo Geo. Reg'. Dnus
Rex ven. Gully.*

93. An Order upon the 43d of *Eliz.*
for maintaining of poor Children by their
Parents.

It

It appearing that *Sarah Gully*, Daughter of *William Gully* of *Okild Burrel*, is in a poor destitute Condition, and wants Relief: These to require the Father to give her 2*s.* per Week till farther Order. *Glide Counsel*: They have not pursued the Words of the Act, which says, *Must be impotent, and not able to work.* She may be so out of Laziness, and yet able to work if she would, and so not within the Meaning of the Act.

2. Said till farther Order, which is ill; for she may have a small Estate left her in the mean Time, or may be able to gain her Livelihood, and it would be hard to inforce her Father to keep her when she can keep herself; and no new Order can be made till the next Sessions.

3. Not said to whom the Money is to be paid. It is to pay to the Overseers, but not said of what Parish: Besides, the Court will take it to be a Vill *prima facie*, unless the contrary appears.

Quashed, but principally for the first Objection. See *Lu. Ca. in L. & E. 307.*

Holy-

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*Holywell and St. Peter's in
Oxford.*

94. By the 12th of Queen *Anne*, A Person that comes into any Parish, who is a Certificate-Man, his Servant nor his Apprentice shall not gain a Settlement.

A Certificate-Man lives a Servant a Quarter of a Year before the Act was made, and held not within the Act, but that he gained a Settlement. *Quod nota.*

*The Parish of Gassington in Oxon,
and St. Trinity in London.*

95. A Certificate-Man goes into *Gassington*, and is elected Tithingman, serves the whole Year, but was not sworn into the Office till Half a Year after. The Order was drawn up specially, and brought into the King's Bench; but it was quashed for Want of Form; but the Court were of Opinion, as to the Merits, that the Man gained a Settlement in *Gassington*, all Settlements

lements being expounded favourably, liberally, and most beneficially for poor People. *Note*; The Act says legally admitted into any annual Office.

The Parish of Camberwell.

96. To quash a Poor's Rate, the Parties aggrieved appealed to the Sessions, the Sessions make an Order to levy the Money on Account of the Rate according to the Land-Tax; it was moved by M. *Darnell* to quash it, because Persons that do not pay to the Land-Tax, yet contribute to the Poor's Rate, as Persons who have a considerable Sum of Money. Quashed *per Curiam*.

Trin. 1716.

97. **A** Woman is in *Hereford* Gaol for Felony, is brought to Bed of a Bastard, but it is settled in the Parish of *B.* The Justices supposing the Bastard to be settled where born, and to be the Child of the County, make an Order directed

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rected to the Treasurer of the County, to maintain her. *Quere*, If the Order is maintainable, and if the Bastard is not settled in that Parish where the Gaol is. *Curia advisare vult.*

Parker Ch. Justice : An Appeal from an Order of two Justices in Relation to Bastardy, is not properly an Appeal, but a Defeasance of the Recognizance; for the Recognizance is to appear at the Sessions, and abide such Order as the Sessions shall make; and if they make none, then to abide the former Order.

Mich. 1716.

*The Parish of St Giles and
St. Margaret.*

98. *Sarah Elkrington*, was settled in *St. Giles's*, and marries an *Irishman*. *Curia* : The Marriage will not put her in a worse Condition than she was in before; and held she continued her Settlement, notwithstanding her Marriage.

The

The King and the Parish of Highworth.

99. An Order of Sessions to pay *William Giles* and *Mary* his Wife, three Shillings per Week.

Objected, Not said they are impotent and unable to maintain themselves; quashed.

1 *Keb.* 489. 2 *Keb.* 537, 643, 744. *Pasch.*

1 *Geo.* The *King* and *Gully*. 5 *Mod.* 197.

Hill. 1716.

The Parish of St. Mary in Reading and Newbury.

100. A Poor Person is bound an Apprentice voluntarily to a Person of the Parish of *Newbury*, no Justices Hands being put to the Indenture; the Sessions held it no Settlement for want of it. *Curia econtra*: The Statute only extends where a poor Child is put out in a compulsory Way; but here it is by Consent, and so the Statute does not extend to it.

Pasch.

Pasch. 1717.

The King vers. Barnes.

101. **T**HE Justices at Sessions in *Wiltshire*, make an Order to enforce *Barnes* to take to his Apprentice a poor Child bound out an Apprentice by the Parish. *Barnes* assigned him over to another Person, and the Justices adjudge the Assignment to be a void Assignment.

Curia: The Justices cannot try an Assignment, a private Right, in such a collateral Manner, it being a Matter of private Concern, which must be tried in a civil Action; and though it cannot pass as an Assignment, yet it will enure by Way of Covenant and Contract between the two Masters to serve the latter. No Inconvenience will ensue; for if the other is a better Master, then it is for the Advantage of the Apprentice: If worse, then an Action of Covenant will lie against the first Master. Vide *Salk. Tit. Apprentice.*

**The Parish of St. Andrew and
St. Bride.**

102. A poor Person with his Family is settled at *St. Brides*, his Wife after leaves him and marries with *A. B.* and had several Children by him; the Justices send the Woman and her Children to the Parish of *St. Brides* where the first Husband was settled, and the Matter was found specially, and set forth in the Order that they had not seen one another for several Years. The Court were of Opinion they were Bastards, and quashed the Order as to the Children being sent from *St. Andrew's* to *St. Brides*.
Vide Salk. Tit. Bastardy.

Palch. 1717.

**The Parish of Southsidnam and
Lamerton.**

103. **J**OH N *Stiles* possessed of a Lease for Years dies intestate, if the next of Kin shall be said in Law to be settled there.

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there. Held not ; he has only a Right, which he must pursue by taking out Letters of Administration ; but no Right is settled or vested in him till an actual Taking out.

27. *A. Takes a Lease for sixty Years, If three Persons live so long, paying seven Pounds per Annum, but really worth thirteen, lying in two Parishes, seven Pounds in one, and six in another. Held the Party gained a Settlement notwithstanding they lay in two Parishes, for the End of the Act is the Renting of an Estate of 10 l. per Annum, which does require some Substance ; and if the Person does rent 10 l. per Annum, the Statute is satisfied. See Lu. Ca. in L. & E. 388.*

The Parish of Horton and Houghton in Staffordshire.

104. A Person hires himself for eleven Months, then goes to his Father for a Week, after that comes to his Master again, and hires himself for another eleven Months. *Quare*, If it gains a Settlement.

Parker thought it a Fraud to elude the Statute; *Prat* doubted, and whether this Mischief ought not to be redressed by the Legislature: Here is no Hiring for a Year. *Adjournatur.* Reported at large in *Lu. Ca.* in *L. & E.* 392.

The Parish of St. Mary Cole-Church, and the Hamlet of Radcliff.

105. One *Goulston* an Apprentice to one *J. S.* a Seafaring Man, who lived in the Parish of *St. Olave's Jury*; the Apprentice lived with his Master three Months, but always lodged a-shipboard; out of the Parish. *Prat* Justice: It does not appear that he was sent by his Master to watch a-shipboard; if it had, it had been carrying on his Master's Business, and continuing in his Service, and doing his Duty.

The Court adjudged he was not settled in the Parish. There must not only be an Apprenticeship, but a Residency, and a Man is deemed to be resident where he lodges.

The Parish of St. Olaves Jury.

106. A Person is bound Apprentice to a Cbler who lives in one Parish, his Stall in another. The Apprentice lived with his Father in a third, and held *per Curiam* he gained no Settlement as an Apprentice.

Mich. 1717.

The King versus Inhabitants of Westwoodhay in Berkshire.

107. **A** Complaint is made by the Officers of *Westwoodhay* to one Justice of Peace; and then two Justices adjudge and remove; and held well: Otherwise, where one Justice sets his Hand to the Order in the Absence of the other. A Person is hired *Saturday* after *Michaelmas-Day*, which was on the *Thursday* before, adjudged no Settlement, there being a Day wanting, and so no Hiring for a Year. Counsel Mr. Tirrel.

Pasch.

Pasch. 1718.

108. **C**ounsel moved to quash an Order of Sessions: Two Justices send a Family to another Parish, who appeals; the Sessions vacate the Order: The Sessions Order began thus, Upon an Appeal from an Order of two Justices, that removed J. S. and his Family from one Parish to another. *Object.* Not appear, who it was that appealed; and if so, *non constat* the Justices had Authority in this Matter, unless it appears, the Appellants were Officers or Inhabitants of the Parish. Let them shew Cause: But note; in *Trinity* Term following the Order was confirmed, it being the common Form.

The Parish of Ivingoe and Solebury in Bucks.

109. A poor Man is hired to one *Knight*, who rented a Farm in *Ivingoe*, and lived Half a Year: The Master assigns the Farm over to another; the Servant lives the

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Residue of the Year with the other Person in the Farm, and at the End of the Year receives the Wages of the second Master; and if this made a Settlement, was the Question.

Curia: The Act says, There must be a Hiring for a Year, and a Service for a Year, which is done in this Case with another Person: The Question will then be, If it shall be deemed the same Service; here is no new Contract. *Prat*: If a Master commands his Servant to live with another for a certain Time, 'tis a Service to the first Master; and here being no new Contract, 'tis carrying on the Service of the first Master; and compared it to the Case of *Castor* and *Eccles*, cited in *Salkeld*. The subsequent Master paying his Wages did not alter the Case; for the Contract not being destroyed, he might have brought an Action against the first Master: *Tota Curia accordant*.

The

The King *versus* Bouen.

110. The Defendant being Overseer of *Westbury* in the County of *Wilts*, and his Accounts being allowed and confirmed; several Years after the Parish appeals against his Accounts.

Curia : The Act of Parliament being silent as to the Time, the Parish may appeal at any Time.

The King *versus* Litton.

111. Upon Complaint of the Overseers; That his Daughter was deserted and impotent : The Justices adjudge and award the Father to pay her so much *per Week*.
Obj. No Adjudication, That she was impotent, only in the complaining Part of the Order ; and the Order was quashed.

The King *versus* Inhabitants of
Packworth.

112. A Person is sent by an Order to a Parish, the Parish appeals; and the Order is confirmed. *Curia*: 'This is conclusive, and the Parish can't send the Family to another Parish.

Stamford Baron *and* Woolston.

113. *A.* comes into *Peterborough*; the Justices send him to *Woolston* by Pass, saying he was settled there; two other Justices send him back to *Peterborough*. Held, the two first Justices err'd by sending him by Pass; it appearing he had a Settlement; but that did not justify the former Error: For where a Person is removed, it is by an Authority in a judicial Manner; they may send him forward, but not to the same Place again.

Gram-

*Gramborough and Mursley in
Bucks.*

114. A poor Woman as next of Kin is intitled to a Leasehold Cottage, worth about twenty Shillings *per Ann.* Her Husband takes out Letters of Administration in Right of his Wife; and held, it gain'd a Settlement: So likewise if he had purchased it, had there been no Fraud.

Mich. 1718.

*The Parish of St. Nicholas and
St. Clements.*

115. **T**HE Order ran thus: That *J. S.* has lately intruded himself, and is likely to become chargeable. *Per Curiam*: No Adjudication; but Recital and Complaint.

The Parish of Sizeton and Beeston.

116. To remove a Man and his Family ; void for the Incertainty. 2. *Obj.* Who was last legally settled in *Beeston*, is in the Pretense : Not appear when ; but overrul'd, and held well.

The King ver. Inhabitants of Hales Hol. in Salop.

117. The Justices discharged an Apprentice at the Sessions, he having the *King's Evil : Curia* : The Justices have no Power to discharge an Apprentice from his Master in Case of Sicknefs ; only an Authority to inquire into Misbehaviour.

2. *Obj.* Not appear one of the Justices, that sign'd the Order, was of the *Quorum : Respond.* There is one always of the *Quorum* at the Sessions. *Non constat* that one was of the *Quorum*, that sign'd the Order : Notwithstanding one might be of the *Quorum* at the Sessions ; a good Objection *per Curiam*.

3. Not

3. Not appear it was inrolled at the Sessions as the Statute directs : A good Objection by *J. Fortescue* ; and the Sessions Order was quash'd.

*The Parish of St. Bride and
St. Saviour.*

118. *J. S.* was bound an Apprentice to *A. B.* of *St. Bride's*, who was a Lodger and had no Settlement there. *Per Curiam* : The Apprentice is well settled there ; notwithstanding the Master is not ; nor does his Settlement depend upon his Master, as that of a Wife on her Husband ; but he gains a Settlement for himself within 13 & 14 *Car. 2.* by forty Days Inhabitation.

Hill. 1718. B. R.

Westwoodhay ver. Comb.

119. **A** Person is examin'd by one Justice and removed by two, who put their Hands to the Order ; and the Court held it well. See 107.

The

The C A S E.

120. A poor Man is hired on *Saturday*, *Michaelmas-Day* being *Thursday* before, to serve him from the said *Thursday* to *Michaelmas* following; now if this gained a Settlement. *Prat.* Ch. Justice held not: How can one be said to serve a Man from a Day that is past; there must be a Hiring first, and a Service pursuing that Hiring, Justice *Powis* and *J. Fortescue* accordant. And afterwards in the same Term, the Order was quashed, and that it gained no Settlement. See 107.

De Termino Pasch. 1719.

The Parish of Burclear and Eastwoodhay; ante.

121. *Abraham Hacket* comes with a Certificate into the Parish of *Eastwoodhay*, and afterwards marries one *Sarah Smith*, and had several Children by her. Her Father surrenders a Copyhold Estate

Estate to her of 20*s.* *per Annum*, and so the Husband had it in her Right. *Per Curiam* : The Man has gained a Settlement in *Eastwoodhay* ; for a Man cannot be turned out of his own, let it be never so small. And *per Fortescue*, the Party here could not be removed ; and not removable, and gaining a Settlement are the same Thing ; and he cited the Case of *Ricelipp* and *Harrow*, where Half an Acre of Land in his own Right gained a Settlement. Then it was objected that the Person being a Certificate-Person by the Statute of the 9th and 10th of King *William*, he gains no Settlement unless he rents a Tenement of 10 *l.* *per Annum*, or exercises an annual Office. And that Statute being an explanatory Act, it cannot be taken farther than the Words are ; but the Court thought it no explanatory Act, but a new Law ; and therefore every Thing that is in the same Mischief, though not within the Words, is within the Meaning of the Statute : Besides, the Act of Parliament never designed to put a Certificate-Person in a worse Condition than another.

Trin.

Trin. 1719.

*Alderbury and St. Edmonds in
Sarum.*

122. **A** Poor Child born of a travelling
vagrant Woman in the Parish
of *Alderbury*, whose Parents are unknown,
is brought into the Parish of *St. Edmonds*,
who remove him to *Alderbury*. The Ses-
sions quashed the Order for Form, which
Order is removed into the King's Bench.

Object. The Order don't judge that he
is chargeable, only in the reciting Part of
the Order. *Respons.* There is no Occa-
sion, the Thing speaks itself; impossible it
should be otherwise: A Child of four or
five Days old, and whose Parents are un-
known. *Curia*: There must be an Adju-
dication; possibly a Person out of Charity
may relieve him. The Order of Sessions
was confirmed. Vide 1 *Salk.* 475. 2 *Salk.*
485.

The

The King *ver.* Munday.

123. A Son-in-law is obliged by an Order to maintain his Wife's Mother, having an Estate with her at the Intermariage. *Per Curiam* : He is not within the Words of the Statute, nor within the Meaning of it, the Statute extending to those Persons only, who ought by the Law of Nature to relieve their Parents; and some Persons were so hard-hearted as to refuse; therefore this Law was made to enforce them to do that, which by the Law of Nature they were obliged to before. Vide 2 *Bulst.* at the End.

New Windfor and White Waltham.

124. A Person having several Children, goes with a Certificate to *White Waltham*, after has several more Children, and then dies; the Wife swears she was never married: Held *per Cur.* she could not be admitted as an Evidence to swear this Matter.

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ter. 2. Admitting they were Bastards, yet the Certificate was an Estoppel and a Conclusion.

Southmason and Coln St. Aldwyn's.

125. *John Charkwood and Sabina* his Wife is intruded and are likely to become chargeable to the Parish of *Coln St. Aldwyn's*. Obj. by Counsel, this Order is void for the Incertainty; *non constat* which of them intruded, and there must be an actual Intrusion; but the Court over-ruled the Objection. It is necessarily intended that the Wife is there where the Husband is: Besides, the Words are *likely to become chargeable*, which is impossible from its Nature, but that they are in the Parish; for otherwise how can they be said to be chargeable. *Prat Ch.* Justice doubted, whether an Intrusion was absolutely necessary or no; the Likelihood to become chargeable supplies it.

De Termino Sta. Trinitatis 1720.

*Inhabitants of Eglesbury versus
Northfetherwin in Cornwall.*

126. **T**WO Justices remove a Man and his Family, adjudging they were last legally settled in *Northfetherwin*, in regard they lived there ten Years as a current Servant.

Object. Not appear there was a Hiring for a Year, as the Act appoints. *Prat* Ch. Justice held the Objection fatal. *For-tescue* Judge: The Justices have no Occasion to give any Reason; but if they do give one, and that Reason is not agreeable to Law, the Order is then void. Now for ought appears in this Case, the Hiring might and might not be for a Year. It must appear to be *ipso facto* void upon the Face of the Order, and so he doubted.

Object. 2. That *J. S.* and his Wife lived as a current Servant: Whereas the Act says, *every unmarried Person not having Wife or Children, that comes to inhabit in a Parish.*

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Parish. Curia : It does not appear he was married at the Time of the Hiring : Might be married after. *Adjournatur.*

The King *ver.* Hawkins.

127. An Order of Bastardy, not said in the Order the Defendant was summoned, or had Notice, or was heard. *Curia* : Not requisite where the Order is made by two Justices ; otherwise had it been originally made at Sessions.

Adjudged *per Curiam*, That Serving the Office of Collector of Births and Burials, gained a legal Settlement.

Hill. 1720.

St. Katherine's Coleman-Street,
and Whitechappel.

128. **T**HE Order removes *Elizabeth Dyke*, and her three Children, setting forth, that *Elizabeth* was the Widow of one *Abraham Dyke*, deceased, settled in *Whitechappel*. *Object.* Not appear they

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they are *Abraham Dyke's* Children. *Curia*: The Children are under Seven Years of Age. Besides, we will not presume they had another Father, in regard their Names are said to be *Dykes*. The Order confirmed.

Pasch. 1721.

The King *and* Inhabitants of Ice-
lip Oxon.

129. **A** Person is hired for a Year, and in the Year's Service his Master gives him Leave to go and see his Mother for one Day, and he tarried three Days, and then came home again; his Master took him into his Service as before. *Per Curiam*: The Master's taking him again is the Purgation of the Offence, and no Interruption of his Service.

2. Three or four Days before his Service expired, he desired Leave of his Master to go to a Fair to hire himself into another Service; but his Master absolutely refused to let him go, and told him he
H should

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should not come into his House again, if he went : The Servant went notwithstanding ; and his Master declaring he should not come into his House again, he did not return until the Time of his Service expired.

Per Curiam : This is a Settlement notwithstanding ; the Request of the Servant is a reasonable Request, and the Law will not suffer a Master to shew himself so inhumane to his Servant.

A Master cannot turn off his Servant two or three Days before the Year expires, if he does the Service in Point of Law continues, and he gains a Settlement notwithstanding ; and so adjudged.

St. Peter's in Dover, and the Parish of Ash in Kent.

130. The Port and Town of *Dover* have Justices of their own, who remove a Family from *St. Peter's* in *Dover* to *Ash*. *Object*. Not appear the Parish of *St. Peter's* is within their Jurisdiction. Solicitor General : *Dover* is inserted in the Margin, and

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and therefore must be intended they had Jurisdiction and Authority. *Curia*: The Justices here have a limited Jurisdiction, and a restrain'd Power, and therefore cannot be intended they had Jurisdiction, unless it appears they had upon the Face of the Order. Quashed for this single Objection.

De Termino sanctæ Trinitatis

1721.

131. *M*andamus prayed to be directed to the Justices of *Nottingham* to appoint Officers in a Place called *Roffam*, an extraparochial Place situate in the Forest of *Sherwood*; and granted; for the Statute of the 13th and 14th of King *Charles II.* has given the Justices Power to intermeddle in Places that are extraparochial; and if they have such Power, then the Court of King's Bench has Power to enforce them to put it in Execution. Counsel Mr. *Pacey*.

Descriptio Villa.

132. *Villa est ex pluribus mansionibus vicinata & collata ex pluribus vicinis.* Every Place shall be intended a *Vill*, unless the contrary be shewn.

D'nus Rex versus Beale.

133. The Defendant was chosen Constable at the *Leet*, afterwards applies to the Sessions, setting forth he was Borsholder at the same Time, and so the Sessions discharged him, and appointed another in his Room. *Object.* by Mr. *Brampton*, that a Constable is eligible at the *Leet*, and the Justices at Sessions have no Power to intermeddle but where the *Leet* has not elected one, or where the *Leet* has not been kept as usual, and cited 1 *Bulst.* 174. *Moor* 845. 1 *Lev.* 233. *Salk.* Tit. *Constable.*

Then the Serving the Office of Borsholder will not alter the Case, unless those two Officers are incompatible; and if they are

in the Court of King's Bench. 101
are, the Constable may make a Deputy,
as it was resolved in 1 *Lev.* 233. and so
no Excuse. *Cur.* Let him shew Cause; and
afterwards it was moved again the Begin-
ning of *Michaelmas* Term, and the Order
was quashed, for the Reasons above.

De Termino Sti. Hillarii 1721.

D'nus Rex *ver.* Emmery Ruth.

134. **U**PON Complaint made to the
Quarter-Sessions that his Son
Valentine Ruth, his Wife, and Family,
were impotent and unable to maintain
themselves, this Court does order the said
Emmery Ruth, to pay them four Shillings
per Week. Objected by Counsel, Not ap-
pear he was resiant, and did live in the
County. The Charge is Personal, and
the Justices had no Power over him, un-
less he lived in the County. Let them
shew Cause.

Note; an Affidavit was made that he
lived in another County; but I think not
read.

St. Mary's in Guilford, and Cranley in Surry.

135. A Person rents a Mill of 10 *l. per Annum*, who assigns the Lease over to the Person who is now removed, during his Will, as long as he paid him his Rent; he continued two Years, and punctually paid the Rent, and the whole Court were of Opinion it was a Settlement. *Quod nota.*

Parker, when Ch. Justice, deliver'd this for Law, and it was the Case of *Camberwell*; Renting a Tenement of 10 *l. per Ann.* for a Month, is a fraudulent Renting; but if a Person rents a Tenement of 10 *l. per Annum*, and continues forty Days, he gains a Settlement within the Meaning of 13 and 14 of King *Charles the Second*. *Quod non fuit negatum.*

Hill.

Hill. 1721.

Barnesley and Ampney-crucis in
Gloucestershire.

136. *William James* was born at *Barnesley*, and bound out Apprentice at *Minchinpampton*, but lived not forty Days by Virtue of his Apprenticeship, and afterwards he hired himself for a Year at *Ampney*, his Master having turned him away, and throwed a Paper into the Fire which he declared was the Indenture.

Counsel urged : It does not appear it was the Indenture ; it is only Evidence, the Fact is not found ; and if so, then he was not *sui Juris* to hire himself any where, and consequently his Hiring void ; to which the Court agreed ; and farther said here is only Evidence, the Fact itself, that it was the Indenture, is not found.

Powis Judge : Admitting the Indenture was burnt, the Contract is not destroyed ; the Justices might compel the Master to take him notwithstanding. *Adjournatur.*

Pasch. 1722.

137. **A** Person comes into a Parish, and marries a Daughter of a Copyholder who died seised; the Tenement afterwards is blown down, and then the Family is removed by an Order of two Justices to the Parish from whence they came; the Justices at Sessions adjudge them settled in the Parish where the Copyhold was. Mr. *Werg* objected, It is not said the Wife had any Right in the Copyhold, or that the Husband lived upon it for forty Days. *Curia* held it ill for that Reason. *Quod nota.*

The Parish of Obie and Lingbury.

138. The Order sets forth that *John Orton* is intruded into the Parish of *Obie*, and is become chargeable: These to remove the said *John Orton*, his Wife and Child. Counsel objected, Not appear his
Wife

Wife intruded, or his Child not removeable before: Let them shew Cause.

Trin. 1722. B. R.

*The Parish of St. Peter's in Oxford
and Fawley.*

139. **T**HE Case: Dr. *Clavering's* Sister lived with him at *Christchurch* in *Oxford*, and hires a Servant for a Year, who was settled in *St. Peter's*; his Sister afterwards goes to *Fawley* upon a Visit, and she with her Servant stayed there above forty Days, and afterwards came back again to *Christchurch*, being an extraparochial Place, where the Servant ended the Year's Service. *St. Peter's* sent her to *Fawley*, *Christchurch* being an extraparochial Place; and the Court held she was settled at *Fawley*, being the last Place she lived forty Days in; she could not by Law be sent to *Christchurch*, being an extraparochial Place, unless there had been Officers to receive her, which they had not at present.

The

The Inhabitants of Lambeth *versus* Faircloth, Lessee of Dr. Ibbotson.

140. The Doctor agrees with several of the Parishioners to take so much for his Tithes, and makes a Lease to *Faircloth*; the Doctor is rated for the Tithes to the Parish Levies, who appeals; and the Matter being found special, the Question was who shall be said to be the Occupier, the Doctor's Lessee, or the Inhabitants.

Per Cur. The Lessee must be said to be the Occupier, in regard there is no certain Time limited for how long, but only from Year to Year; and *per Judge Eyre*, the letting of them is in Nature of a Sale, and the Party looked upon as Vendee; no Manner of Advantage is given to the Inhabitants, for they give the full Value for their Tithes; otherwise had it been a Contract for Years.

The

The King ver. Inhabitants of West-Horsley.

141. The Master turns away his Servant a Day before *Michaelmas*, hired the *Michaelmas* before for a Year; so there is a Hiring for a Year, but wanted a Day's Service to compleat it. *Per Curiam*: The Master cannot turn away a Servant to defeat a Settlement; his Service continues notwithstanding, and held it was a Service for a Year: Counsel Mr. *Bonwick*.

**The Parish of Oby and Linsbury,
*ante.***

142. The Order sets forth, That *John Orlton* is intruded into the Parish of *Oby*, and is become chargeable, which the Justices adjudge: These are to remove the said *John Orlton*, his Wife and Child, to the Parish of *Linsbury*. *Object*. The Justices have removed more than is complained of; neither does it appear the Wife and Child intruded themselves,
Curia:

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Curia : The Intrusion of the Husband is, by a Consequence of Law, an Intrusion of the Wife; they are *una caro* and cannot be separated, and the Settlement of the Husband is the Settlement of the Wife and Child.

Note ; This Objection had prevail'd, had it been in Case of a Servant, the Distinction being between Servants and a Wife. *Mr. Bowes Counsel.*

The Parish of St. John and Ampwell.

143. A Certificate-Person rents a Tenement of 14*l.* *per Annum*, the House at 4*l.* *per Annum* in one Parish, and 10*l.* in another, if this gained a Settlement, not being all in one Parish, in the Case of a Certificate-Person, upon the Construction of the 9th and 10th of King *William*. The Court held the same Reason holds, as in the Case of *South-Lamer-ton, Trin.* third Year of King *George*, where a Person rented a Tenement of 10*l.* *per Ann.* in two different Parishes, and that

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that the Law never designed to put a Certificate-Person in a worse Condition than another. See 148.

Pasch. 1722.

The King *versus* Inhabitants of
Shellingham in Norfolk.

144. **T**HE Order removes a Family from *Shellingham*, in the County of *Norfolk*. Not appear that *Shellingham* was in the County of *Norfolk*; but *Norfolk* was in the Margent. The Court held the Objection fatal: The Difference is between civil and criminal Prosecution: It must appear the Parish is in the County, from whence the Family is remov'd.

Mich.

Mich. 1722.

The Parishes of Horsham and Old Fishstreet in London.

145. **A** Woman and her Child are intruded : Not appear but the Child is a Bastard. Over-ruled.

Likely to become chargeable ; but not said to what Parish. *Prat* Chief Justice and the whole Court : It must be necessarily intended to the Parish, where the Intrusion was ; and the Objection over-ruled.

The King and Inhabitants of St. Peter's in Marlborough.

146. The Justices of the Borough of *Marlborough* at their Quarter-Sessions, make an Order for the Parish of *St. Peter's* to pay Fifty Pounds for the Relief of the Poor of *St. Mary's* in the same Borough.

Obj. The Sessions have no original Jurisdiction by the 43d of Queen *Elizabeth* :

The two Justices must first make an Order.

Mr. *Werg* *econtra*.

It does not appear, whether it was at Sessions or before two Justices: The Caption is at the Sessions: The Order recites, before us two of his Majesty's Justices of the Peace for the Borough aforesaid. Take it to be at the Sessions, then 'tis void for Want of Jurisdiction. Take it to be before two Justices of the Peace, then 'tis void; not appearing the Parish of *St. Peter's* is within the Hundred.

Note another Objection; It did not appear the Parish of *St. Peter's* was of Abili-
lity. *Vide 2 Bulstrode* 251, 252, 5 *Mod.*
Rep. 397.

The Order was quash'd *per Cur'*.

*Parish of St. John in Lincoln and
Great Marcum.*

147. A Woman and her Child are removed to the Parish of *Great Marcum*, as being the Settlement of her Husband deceased. Mr. *Werg*: They might have gained

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gained a subsequent Settlement since the Decease of the Husband. *Curia*: Let them shew Cause.

The Parish of St. John in Hartford and Ampwell.

148. A Certificate-Person rents fourteen Pounds a Year; but it lies in two Parishes. *Curia*: It gains a Settlement, and in the Parish where he resides. See 143.

The Parishes of St. Giles in Reading and Eversley Black Water in Southampton.

The *C A S E*.

149. One *Chesterman* is born at *St. Giles's*, after goes an Apprentice to a Person in *Eversley*, where he liv'd above forty Days; but his Master failing in the World he came back to *St. Giles's*, and married, and had two Children there; he dies, and then the Order removes his Wife and two Children

Children to *Eversley*, and it appear'd they never were there.

Mr. *Reeve* urged, That a Birth gain'd a Settlement; and though in the Father's Life they might have been removed with their Father, yet after his Death they cannot; for how can they be said to be settled in a Parish where they never were; and cited the Case of the Parish of *Spritle Fields* and *St. Andrews Holborn*. *Pasch.* 12 of King *William*. An Infant (not known where his Friends were settled) settled where he was born. *Vide Raym.* 476.

Powys and *Prat* seem'd to concur. *Eyre* Judge: By a Consequence of Law, the Settlement of the Father is a Settlement of his Wife and Family. Judge *Fortescue*: Birth gains no Settlement, but where the Settlement of the Father is unknown: *Adjournatur.*

1111 I The

The King versus Mitsford Clerk.

An Order of Bastardy.

150. The Order of *William Glyn* and *Joseph Syllly*, two of his Majesty's Justices of the Peace residing next to the Parish-church of the Borough of *Bedwin*. *Obj.* A Borough may have several Parishes. *Curia*: The Words shew the Borough and Parish to be but one: And the Case of the *King versus Mews* was cited *Hill*. 8. of *Queen Anne*. Moved to quash an Order of Bastardy; not said the Child was chargeable to the Parish, but to an Hamlet. *Curia*: If it was a Hamlet that maintain'd its own Poor, it had been good; but this not appearing, it was quash'd. Counsel *Mr. Cruise*.

Hill.

in the Court of King's Bench. 1115

Hill. 1723.

**The Inhabitants of Cutherton and
Hunder-Twayt in Yorkshire.**

151. **T**HE Order removes a Man and his Family. *Obj.* by Mr. Raby: Not appear the Place whence the Family is removed was within the County. The County being in the Margin but not in the Body of the Order: Quash'd. And there was cited the Case of the *King* versus *Dobins*; not appear the Place where the Fact was committed was within the County.

Pasch. 1723.

**The King and Inhabitants of
Carlton.**

152. **A** Poor Person is removed from *A.* to *B.* the Order is quash'd; afterwards *A.* sends him to *D.* the Order is likewise quash'd; afterwards the Parish of *A.*

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sends him to *B.* again, and mov'd to quash it. *Mr. Werg:* Here is three Months intervening from *August* to *December* following. *Econtra* was cited the Case of *Barrow* and *Engleby*; where there was nine Months intervening from the Time of the first Removal, and quash'd; the Court not intending there was any subsequent Settlement; *ad quod curia concessit*; and the Order was quash'd.

Inter the Parish of *St. Olave*
Southwark and *All-Hallows*.

153. *A.* is bound Apprentice to *B.* who lives in *St. Olave's*, afterwards his Apprentice by his Master's Consent lives with another Person in *All-Hallows*.

Per Curiam, He gains a Settlement in the last Place; for a Person may serve his Master in another Place or Parish; and although he serves another Man, yet 'tis by Consent of his Master, and the Benefit accrues to his Master. Counsel *Mr. Borret.*

Eleanor

Eleanor Conred's Case.

154. She landed at *Harwich* from *Holland*, and removing to another Parish was sent back to *Harwich*. *Obj.* Landing makes no Settlement. *Curia* : You must keep her where you have her, 'tis *Casus omissus* out of the Act of Parliament. The Order quash'd. See 243.

Pasch. 1724.

The King ver. Inhabitants of Ship-ton Curry.

155. **A** Master takes an Apprentice the Master runs away : The Apprentice hires himself for a Year, and serves the Year. *Per Cur.* He gains no Settlement, not being *sui juris*, nor of a Capacity to hire himself ; otherwise, had it been by Consent of his Master, or had his Indenture been cancell'd. *Curia* : The Justices can't order an Executor to take an Apprentice. An Apprenticeship is a per-

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sonal Trust between the Master and Servant, and determines by the Death of either of them. *See where, see 325.*

De Termino sanctæ Trinitatis

1724.

The Parishes of Ashbottle in Somerset, and Wyley in Wilts.

156. **O**NE Kemp a poor Person lives in a Cottage for thirty Years and upwards, dies leaving one Daughter, who afterwards married to one *Burroughs*, who immediately enter'd, and after sold it for twenty-four Pounds; but before Sale, the Man and his Wife continued three Quarters of a Year in quiet Possession; it was likewise said in the Order, The old Man before his Death left three Guineas to buy a Term in the Cottage of the Earl of *Pembroke*: The Justices at the Sessions adjudge him settled in *Wyley*; and the Court of King's Bench inclined to be of the same Opinion, no Fraud appearing; tho' objected *econtra*, There was no Title appear'd;
it

in the Court of King's Bench. 119
it might for ought appears be a Lease at
Will ; *Adjornatur.*

Dominus Rex versus Godfrey.

157. An Order of Bastardy quash'd :
Not said, the Child was born in the Pa-
rish. Counsel : It is said *chargeable to the*
Parish, which implies it. *Curia* : So it
may by being left there, tho' perhaps born
elsewhere. Quash'd *per Curiam.*

Trin. 1724.

The Parish of Normant on in
Lincolnshire and Edlington in
Northamptonshire.

158. **M**Oved to quash an Order of two
Justices : The Order removes
the Wife of *John Stiles* late of *Norman-*
ton. *Obj.* Not appear when that was ; it
may be five or ten Years ago ; nor does it
appear, the Wife was in the Parish at the
'Time of the Removal. *2d Obj.* Said
likely to become chargeable ; not said to

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what Parish, nor where ; may be it may
to her Husband. Curia : Let them shew
Cause.

Trin. 1724.

The Chapelry of St. James in the
Parish of Bishop's Cannings ver-
sus Inhabitants of St. John's in
the Devises in Com' Wilts.

152 ONE *Joseph Warren* is bound Ap-
prentice to *John Powell* of *St.*
John's Parish in the *Devises*, Hosier. The
said *John Powell* having a small House,
the Father was to find Meat, Drink, Wash-
ing and Lodging ; the Master allowing
2 s. 6 d. per Week : The Apprentice ne-
ver lodg'd with his Master at *St. John's*
Parish, but with his Father in *Bishop's*
Cannings. Held the Apprentice gain'd no
Settlement in *St. John's* Parish, by Virtue
of the Apprenticeship with his Master, in
Regard he never lodg'd in the Parish, for
the Space of forty Days : The like Reso-
lution was between the King and In-
habitants

habitants of Cirencester. A. bound an Apprentice to a Butcher in *Cirencester*, liv'd with his Father for the first six Years, and then came and lived with his Master up and down for three Quarters of a Year. *Obj.* Not appear he lived forty Days with his Master. *Curia* : 'Tis set forth he was up and down three Quarters of a Year with his Master ; so Room to intend he was resident forty Days.

Hill. 1724.

Moyer Hanger and Warden in
Bedfordshire.

160. **T**HE Order is quash'd for Form at the Sessions, which is a good Order ; after they send the Party back ; yet the Order being good, it is final, and a Bar to all subsequent Orders.

The King *versus* Collingborn.

161. The Justices discharge an Apprentice from his Master being a Glazier, for Cruelty.

Cruelty. *Obj.* 'Tis not a Trade mentioned in the Statute, and so not within their Jurisdiction. Let them shew Cause.

Trin. 1725.

Rex versus Inhabitants of King's Langley.

162. **A**N Infant of two Years old can't be a Vagrant: It appear'd likewise who is the Father, and upon the Father's Evidence can't be a Vagrant where the Parents are known. The Order quashed.

Dominus Rex versus Venables.

163. A Suppression for an Alehouse, and after he sells again: The Justices committed him for three Days, and until he found Sureties. Objected by Counsel to the Conviction: No Summons set forth. *Curia*: Not necessary; and the Conviction confirm'd.

Rex

Rex *versus* Austin.

164. An Order of Suppression of an Ale-house: The County in the Margin, but not in the Body of the Order, ill, and quash'd: Good in civil Causes, not in criminal.

Pasch. 1726. *Duodecimo Georgii primi.*

The Inhabitants of St. Peter's and St. Mary's in the Borough of Marlborough.

165. **A**N Order by the Justices of the Borough for the Parish of St. Peter's to pay to the Officers of St. Mary's the Sum of twenty Shillings weekly, until we the said Justices shall see fit to order to the contrary.

1. *Obj.* Not appear the Parish of St. Mary's is overburthen'd with Poor; but over-rul'd: The Order follows the Words of the Statute.

2 *Obj.*

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2 *Obj.* Said they are Justices of the Town and Borough. It appears upon the Order, the Parish of *St. Mary's* is within the Borough, but not within the Town and Borough. *Cur.* They are Justices of both.

3 *Obj.* Until we shall see fit to order the contrary. The Act of Parliament never gave the Justices such an Authority, 'tis in Effect making a perpetual Order: For if one of the Justices die or be removed, no other Justice can alter it, 'till we the said Justices shall see fit to alter. Quash'd *per Cur.* for the last Objection.

Trin. 1726.

The King and Inhabitants of
Whitchurch.

166. **A** Person is bound Apprentice to a Gentleman, who made Use of him as his Huntsman; he lived with him three Quarters of a Year, and then ran away.

Curia. Here is a living for forty Days; and so the Person gains a Settlement. *Obj.* He

in the Court of King's Bench. 1725

He serv'd a Gentleman, and consequently no Trade. *Curia*: He is bound out as an Apprentice; the Master may make Use of him in what Manner he pleases; and *per Curiam* held a Settlement accordingly.

Rex versus Inhabitants of Portsmouth.

167. The Order was drawn up specially for the Direction of the Court: The Words were, *Hir'd as a weekly Servant.* The Court said, they could not judge what the Import of the Word was, & *nihil factum: Adjournatur.*

Mich. 1726.

The King and Inhabitants of Chilmarton.

168. **T**HE Sessions have no original Power to appoint Overseers. They appoint two of the Inhabitants: Not said *substantial Inhabitants* as the Statute directs, and quash'd *per Cur.*

The

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The Parish of *Haniton* the same Ob-
jection.

Hill. 1727.

169. **A** House converted into a Conven-
ticle, and used for no other Pur-
poses, if ratable to the Poor's Tax. *Curia*:
Never knew it; let them shew Cause:
And after, the Order was quash'd.

170. The Justices make an Order for
John a Stiles to pay a Sum of Money to
the Parson and Overseers of such a Parish.
Objected by Counsel: It may be a Cha-
rity left for a particular Purpose, in which
the Justices have no Power to intermeddle;
ad quod Curia concessit: Adjournatur.

Mich. 1727.

The King *versus* Street.

171. **A**N Order of Bastardy which ad-
judges the Defendant to be the
Father, and orders the Sum of one Shil-
ling

ling to be paid weekly for its Maintenance, until the Bastard shall be nine Years old.

Obj. The Child may not be chargeable so long; should be as long as the Child is chargeable. *Curia*: It has been held good of later Years: 'Tis impossible he should be otherwise at the Age of nine Years; and the Order was confirm'd.

The Parish of St. Buddolph, without Aldgate.

1721. This Parish extends into two Counties; and in Regard it did appear, That each Part of the Parish had distinct Officers, and made distinct Rates, and had used Time out of Mind to make distinct Accounts to the Justices; the Court held each Division a distinct Parish, and order'd it accordingly. *Raymond's Reports* 476, 477.

The

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The King versus Boyce a Justice of Peace in Middlesex.

173. The Court was mov'd for an Information against him for a Misdemeanor in his Office ; but the Court refused to grant it ; the Fact with which he was charged being done above a Year ; should have mov'd it before. *Quod nota.*

Inhabitants of St. Giles's in the Fields, and the Parish of Pottern in the County of Wilts.

174. The Parish of Pottern remove Jonathan Haselden, his Wife and seven Children to the Parish of St. Giles in the Fields. The Parish of St. Giles send them back to the Parish of Pottern, without ever appealing to the Quarter-Sessions, as they ought ; the Order of the two Justices being a Judgment which continues of Force till set aside upon the Appeal : Both the Orders were removed into the King's

Bench, and the Court confirmed the *Pottern* Order, and quash'd the *Middlesex* Order for the Irregularity : And because several Objections were taken to the Justices Order, and all over-ruled, I have recited the Order *verbatim*.

175. *Wilts, ss.* To the Church-wardens and Overseers of the Poor of the Parish of *Pottern* in the County of *Wilts*, and to any or either of them : These to execute : *Whereas* Complaint hath been made by you the Church-wardens and Overseers of the Poor of the Parish of *Pottern* in the County of *Wilts* unto us, whose Hands and Seals are hereunto set, two of his Majesty's Justices of the Peace, *Quorum unus*, for the said County of *Wilts*, That *Jonathan Haselden*, *Mary* his Wife, *James* of the Age of nine Years or thereabouts, *Samuel* of the Age of five Years or thereabouts, *Richard* of the Age of three Years or thereabouts, *Jonathan* of the Age of two Months or thereabouts, their Sons ; *Winefrid* of the Age of fourteen Years

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‘ or thereabouts, *Mary* of the Age of
‘ twelve Years or thereabouts, *Susanna* of
‘ the Age of one Year or thereabouts,
‘ their Daughters, have lately intruded
‘ themselves into your said Parish of *Pot-*
‘ *tern* in the County of *Wilts* aforesaid,
‘ there to inhabit as Parishioners, contrary
‘ to the Laws relating to the Settlement
‘ of the Poor, and are there now become
‘ chargeable. And whereas, upon due
‘ Examination and Inquiry made into the
‘ Premisses by us the said Justices, upon
‘ the Oath of the said *Jonathan Haselden*,
‘ and upon the producing a Certificate un-
‘ der the Hands and Seals of the Church-
‘ wardens and Overseers of the Parish of
‘ *St. Giles* in the Fields in the County of
‘ *Middlesex*; by which Certificate the said
‘ *Jonathan Haselden*, *Mary* his Wife, and
‘ *Winefrid* their Child were acknowledged
‘ and admitted to be Inhabitants legally
‘ settled in the said Parish of *St. Giles*, and
‘ to be Parishioners there; whereby it ap-
‘ pears unto us the said Justices, and we
‘ do accordingly adjudge, That the said
‘ *Jonathan Haselden*, *Mary* his Wife,
‘ *James*

in the Court of King's Bench. 131

James, Samuel, Richard, and Jonathan
their Sons; *Winefrid, Mary and Susanna*
their Daughters are become chargeable
to your said Parish of *Pottern*, and that
their last legal Place of Settlement is in
the said Parish of *St. Giles* in the Fields
in the said County of *Middlesex*: These
are therefore in his Majesty's Name to
order and require you the said Church-
wardens and Overseers of the Poor of
the said Parish of *Pottern*, That you or
some of you do forthwith remove and
convey the said *Jonathan Haselden,*
Mary his Wife, *James, Samuel, Rich-*
ard and *Jonathan* their Sons; *Winefrid,*
Mary and *Susanna* their Daughters,
from your said Parish of *Pottern* to the
Parish of *St. Giles* in the Fields afore-
said, and them deliver to the Church-
wardens and Overseers of the Poor there,
or to some or one of them, together with
this our Warrant or Order, or a true
Copy hereof; whereby the said Church-
wardens and Overseers of the said Parish
of *St. Giles* in the Fields are likewise
requir'd in his Majesty's Name, and by

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‘ Virtue of the Statutes in such Case
‘ made, forthwith to receive the said Jo-
‘ *nathan Haselden, Mary* his Wife, *James*
‘ *Samuel, Richard, and Jonathan* their
‘ Sons ; *Winefrid, Mary and Susanna*
‘ their Daughters into the said Parish of
‘ *St. Giles* in the Fields, and provide for
‘ them as their own Parishioners, until
‘ they shall be otherwise discharged from
‘ them by due Course of Law.

*Given under our Hands and Seals this
present fourth Day of May, Anno
Domini 1726.*

‘ To the Church-wardens and Over-
‘ seers of the Poor of the Parish of
‘ *St. Giles* in the County of *Middle-*
‘ *sex* : These to obey.

The

*The Appendix of the like
Cases, when Sir John
Holt, Knt. was Chief
Justice.*

Mich. 3 W. & M.

The King versus Gately.

176. **U**PON a Motion to quash an Order of Sessions, made for discharging one *Green* an Apprentice from his Apprenticeship to one *Gately*, upon the Statute 5 *Eliz.* there were two Exceptions taken to the Order. 1. That it appeared to be an original Order made at the Sessions ; whereas by the Statute, 5 *Eliz. c. 4. par. 35.* the Parties in such Cases ought first to apply themselves to a Justice of the Peace ; and if he cannot compound the Matter, then he is to bind

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the Master to appear at the next Sessions; but by this Order it doth not appear that any Application was made to the Justice, as directed by the Statute. 2. This Order is not under the Seals of the Justices, which is expressly requir'd by the Statute.

Et per Curiam, Both these are material Defects in the Order, and therefore it was quash'd. *Carth.* 198, 199, 366. 2 *Salk.* 471. See after.

Mich. 7 W. III.

177. **I**F an Apprentice be discharged from his Master, the Statute requires that the Discharge be under the Hands and Seals of four Justices of Peace; but in a *Certiorari* to remove the Order, 'tis sufficient in the Return to take Notice of the Order so made; for 'tis not necessary to certify the Discharge itself. 2 *Salk.* 470. And in *Trin.* 13 W. 3. between the *King* and *Johnson*, reported 1 *Salk.* 68. The Sessions may discharge Apprentice by original Order, and order Money to be return'd. *Ho.* 511. 1 *Mod.* 2. 1 *Sand.* 315.

Pasch.

Pasch. 3 Ann.

The Queen *versus* Gold.

178. **I**NDICTED, for that one *A.* a poor Boy, being set out to him as an Apprentice, pursuant to the Act of Parliament, he *Vi & Armis* refused to provide for him ; and moved to quash it. 1. Because it was not a Matter indictable. 2. In case it be, there should have been first an Application to a Justice of Peace, and after an Appeal to the Sessions ; and then perhaps for Disobedience to such Orders an Indictment would lie. 3. It is said to be *Vi & Armis*, which is absurd, it being for a *Nonfeasance*.

Per Curiam ; If this had been the Case of a common Apprentice, an Indictment would not lie : Indeed formerly it has been held generally, and by all the Judges in *Pyne's Case*, that the Justices could not compel a Man to take an Apprentice upon the Statute ; but since the contrary Opinion has prevailed. And then when

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we allow them such Power, of necessary Consequence we must allow an Indictment for Disobedience to their Orders, either in not receiving or receiving, and after turning off and not providing for such Apprentice. And tho' an Act of Parliament prescribes an easier Way of proceeding by Complaint, as is urged, yet that does not hinder an Indictment; and tho' the *Vi & Armis* in this Case be absurd, yet it is only Surplusage, which will not vitiate; and refused to quash it.

The Statute of 8 & 9 W. 3. cap. 30. relates to the Justices Power. *Mod. Ca.* 163. 164.

Punting's Case.

179. An Order to discharge an Apprentice was quashed, because to the Trade of a Tallow Chandler, which is not mention'd in the Statute; besides it was under the Hands and Seals of three Justices where the Statute requires four. 3 *Salk.* 41.

Trin.

Trin. 10 W. III.

Shaw's Case.

180. **T**WO Justices of the Peace for the County of *Essex*, adjudged *Shaw* to be the reputed Father of a Bastard Child, and by their Order, he was charged to maintain it; from which Order he appealed to the next Quarter-Sessions, after Notice; where upon Debate, the Order of two Justices was vacated. And now it was moved to quash the Order of Sessions, for that it recited the Order of the two Justices, and *Shaw's* Appeal to the next General Quarter-Sessions, &c. whereas the Statute 8 *Eliz. cap. 3.* which gives the Appeal, directs that it shall be to the next General Sessions, and probably there might be a General Sessions held for the County of *Essex*, between the Time of Notice of this Order, and the General Quarter-Sessions when the Order was made; and if so, then this Appeal was irregular, and the Court of Quarter-Sessions had

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had no Jurisdiction, for which Reason the
Sessions Order was quash'd. *Carth.* 455.

Mich. 10 W. III.

The King versus Alverston.

181. **B**Y an Order of two Justices, the
Defendant being adjudged the
reputed Father of a Bastard Child, was
thereby charged to maintain it ; which
Order was Special (to wit) That *Mary
Spence*, the Wife of *Jonathan Spence*
Mariner, was delivered of a Male Bastard
Child, and that it appeared to them upon
Oath of, &c. that *J. S.* her Husband was
in the King's Service at *Cadiz* in *Spain*,
and not within the King of *England's* Do-
minions, at the Time when the said Child
was begotten or born : And now it was
moved to quash both the said Orders, be-
cause the Statute 18 *Eliz.* concerning Ba-
stard Children doth not extend to this
Case ; for the Justices have no Jurisdiction
but where the Child was born out of law-
ful Matrimony. 1. If this Woman had
been

been delivered alone of a Child without crying out for Help, 'tis certain this would not have been Felony within the Stat. 21 *Jac. cap. 27.* tho' no Proof could be made that the Child was born dead.

2. 'Tis impossible there should have been a reputed Father, when there is a known Father of whom the Law takes Notice; and tho' this Child may be a Bastard in regard to any Right of Inheritance, yet that is not sufficient to bring it within the Conusance of the Justices of the Peace, by Virtue of this Statute.

3. The third Exception was to the Form of the Order, *viz.* that it is not alledged therein, that the Husband was beyond Sea for the Space of forty Weeks before the Birth of the Child; and 'tis not sufficient to say that he was beyond Sea at the Time of the Conception, because that is what in Nature cannot certainly be known. And for this last Reason only these Orders were quashed; but the Court bound the Defendant by Recognizance, to appear at the next Quarter-Sessions for *Middlesex*, being inclinable to bring the Case within the Intent

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Intent of the Statute 18 *Eliz.* because of the frequent Mischiefs of this Kind, which have happened among Seamens Wives. *Idem* 469, 470.

Hill. 10 W. III.

Masters versus Child.

182. **R**uled, That the Birth of a Bastard Child, *prima facie*, settles it in the Place where born; but if a Woman big with Child of a Bastard, and settled in one Parish, is persuaded to go into another and there to be delivered, this Fraud will make the Parish chargeable where the Mother was settled, tho' the Child was not born there. But if a Woman with Child of a Bastard come accidentally into one Parish, and is persuaded by some of the Parishioners to go into another Parish, which she doth, and there is delivered, this shall not charge that Parish which persuaded her. 3 *Salk.* 66.

Pasch.

Pasch. 1 Ann.

The Queen versus Chaffin.

183. **A**N Order of Sessions was made upon an Appeal, for maintaining a Bastard Child, which Order was quash'd; and thereupon it was mov'd, that the reputed Father might be bound in *B. R.* to appear below; and *per Curiam*, if the original Order made by the Justices is below, we will oblige him to go down again, but if it is here we cannot; and it appearing, that the original Order was in *B. R.* and by Consequence that the Justices could have no Authority below, the Court was moved that the reputed Father might give Security to perform; but that was oppos'd, because the Course is to pray, that the Order might be confirmed, and then there is Occasion for giving Security; because, If the Order thus confirm'd, is not obeyed, the other Side may have the Proceſs of this Court against the reputed Father, or he may be bound to appear

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pear at the Sessions; afterwards this Order was quash'd as to Part, and confirmed as to the Residue; the Part for which it was quashed was, that the reputed Father should give Security to perform the Order; which *per Curiam* is naught.

A Bastard is *terminus a quo*, he is the first of his Family, for he hath no Relation of which the Law takes any Notice; but this must be understood as to civil Purposes; for there is a Relation as to moral Purposes, therefore he cannot marry his own Mother, or Bastard Sister. *Id. Ibid.*

Hill. 8 W. III.

Purnall's Case.

184. **A**N Order upon *H.* for maintaining his Daughter, was quashed; because it was recited to be made *ad Generalem Sessionem Pacis*, and not *ad Quarterialem Sessionem Pacis*, according to the Statute 43 Eliz. cap. 2. 2 Salk. 476.

1

Trin

Trin. 10 W. III.

The King versus Shaw.

185. **A**N Order was made by two Justices of the Peace, adjudging *S.* to be the reputed Father of a Bastard; whereupon he appealed to the next Quarter-Sessions of the Peace after Notice, where the Order of the two Justices was discharged; and now it was here moved to quash the Order of Sessions, because by the Statute the Appeal must be the next General Sessions, and there might have been a General Sessions before the General Quarter-Sessions; as in *London* and *Middlesex*, where there are four General Sessions in the Year besides the General Quarter-Sessions; quashed for this Fault. *Idem* 482.

Hill.

Hill. 9 W. III.

The King *versus* Curnock.

186. **H**E was indicted for Non-performance of an Order of Sessions, requiring him to relieve and maintain his Son's Wife; and now the Indictment was quashed, because 'tis only said, *ad Generalem Sessionem*, and not said *Quarterialem*, as it should be by the Statute 43 *Eliz.* they may hold other General Sessions, but are required to hold four Quarter-Sessions *per Stat. Comb. 418.*

Trin. 11 W. III.

King's Langley *Parish.*

187. **A** Motion was made to quash an Order of Sessions because the Justices had adjourned the Appeal from one Sessions to another, and so the Determination upon the Appeal was not at the next Quarter-Sessions; *sed non allocatur;*

in the Court of King's Bench. 145

for the Appeal must be lodg'd at the next Quarter-Sessions; yet when 'tis lodg'd, the Justices may adjourn it; *per Curiam.*
2 Salk. 605.

Pasch. 1 Ann.

Linfield *and* Battle.

188. **C**aption of an Indictment at the Sessions was, *Sessio tent' Vicefimo & Vicefimo Octavo Die Julii, &c. Et per Holt Capital' Justic'*. It is naught; for tho' a Sessions may adjourn from one Day to another, and so sit by Adjournment, yet it must not appear in a Lump, as sitting three Days together, but distinctly. *Idem ibidem.*

Pasch. 5 Ann.

The Queen *versus* Inhabitants of Buckingham.

189. **A** Special Order was made, wherein the Case was; *H.* being a poor Person went to *Buckingham*, where he took Part of a House of *W. T.* at 3*l.* per

L

Annum

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Annum, and insisted, when he took this Apartment, that he would pay no Taxes for it, but that the Lessor should; this was agreed to, his Rent being the more and the greater upon that Account: This appeared upon Evidence, and also that this Apartment before the Taking, and while he continued in it, was distinct from the rest of the House without Communication, and was taxed as a House of itself, and that the Tax was laid upon *W. T.* the Lessor; and that while *H.* lived there he took his Freedom in the Corporation, and once voted as a Freeman at the Election of Bailiffs for the Corporation. The Justices at the Quarter-Sessions adjudged this to be a good Settlement: But upon the Motion of Serjeant *Broderick* it was quashed: He insisted, that since the Explanatory Act 3 & 4 *W. & M.* nothing makes a Settlement within that Statute that comes not within the Words; an explanatory Act implying a Negative of any thing else. *Et per Holt Ch. Just. and Powell Just.* Coming into a Parish, and being taxed by the Parish, made a good Settlement without a Notice

in the Court of King's Bench. 147

Notice in Writing, within the Stat. Jac. 2.
But the Law is alter'd by 3 & 4 W. & M.
and as to his voting, they could not take
Notice that that implied a Settlement;
for a bare Residence might, by the Con-
stitution of the Corporation, intitle him
to that, and his Voting was an Act that
related to the Corporation, and not to the
Parish. 2 Salk. 534. Ho. 582.

Hill. 6 W. III.

The King versus Darebaker.

1901 **O**RDER of Justices to pay so
much Money by the Week till
the Child is fourteen Years of Age, is
naught; for the Justices have no Power
but to indemnify the Parish; and that
is only to oblige him to maintain the
Child, as long as it is or may be charge-
able. 1 Salk. 121.

L 2

Trin.

Trin. 3 Ann.

Westbury and Costham.

191. **A** Woman with Child being unmarried, was by Order of two Justices removed from *Westbury* to *Costham*, and brought-to-bed there. *Costham* appealed at the next Sessions, and the Order was reversed. Afterwards by Order of two Justices the Child was sent to *Costham*; they appealed, and the Order was confirmed. At last all was removed into *Banco Regis*; & *per Curiam*, The Birth at *Costham* did not settle the Child there, because it was under an illegal Order procured by *Westbury*; which Order being reversed, the Matter is no more than this, that they unjustly procured the Woman to go thither. *Idem ibidem*, & 122. 2 *Salk.* 532.

Mich.

Mich. 10 W. III.

Wood's Case.

192. **A** Woman big with Child was removed by Order of two Justices from *A.* to *B.* and was there brought-to-bed; *B.* appealed, and on the Appeal the Woman was sent back to *A.* *Et per Curiam*, so ought the Child, for all was suspended by the Appeal; and now the Mother's Right of settling upon *B.* is avoided *ab initio.* *Idem* 121.

Trin. 9 W. III.

Browne's Case.

193. **T**WO Justices of the Peace in *Northamptonshire*, make an Order upon him as the Father of a Bastard Child; he appeals to the next Sessions save one. *Holt* Ch. Justice first said the Appeal ought to be to the next Sessions; but it being said, he had no Notice till after the

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next Sessions, *Holt* inclined, that the Appeal might lie to the next Sessions after Notice; wheresoever it doth appear that there might be an intervening Sessions by Law, it lieth upon the Party to prove that he had not Notice till after the Sessions; Nay it seemeth, it should appear so in the Order of Sessions.

Note; The Justices cannot order a Sum for putting out the Child an Apprentice; both Orders were quashed. *Comb.* 448.

Trin. 10 W. III.

Dr. Gronivil's Case.

194. *PER Holt* Chief Justice: If a Justice of Peace commits one, as a reputed Father of a Bastard Child, and afterwards it appears that the Child was no Bastard, he must answer it; otherwise if the Order was only reversed, because another was Father. So the Case of *Terry and Huntington*, *Hardr.* 481. The Officer had been no Trespasser, if the Liquor had been exciseable. *Idem* 482.

Mich.

Mich. 2 Jac. II.

195. **O**Rder to provide for a Bastard Child : Exception was taken, that it doth not appear in the Order, that he is chargeable to the Parish, or likely to be so. Quash'd. 1 Cro. 36. Sid. 222. Comb. 39.

Mich. 3 Jac. II.

196. **A**N Exception to an Order for keeping a Bastard Child, That it is not pursuant to the Statute, because it makes Provision for the Maintenance of the Child, (till he shall be no longer chargeable, &c.) whereas by the Statute, it should be till the Child be able to get his own Living ; *sed non allocatur* ; and the Order was confirmed. Sid. 222. Comb. 69.

Easter 1 W. & M.

The King *versus* Colbert.

197. **A**N Order made by Justices of Peace was quashed. 1. Because it was made on an Affidavit brought to them, without the Examination of any Witnesses. 2. Because the Defendant was ordered to pay 6*l.* a Sum in gross for the Charges the Parish had been at, without shewing how, or for what. *Comb.* 103.

Mich. 3 Jac. 2.

198. **A**N Order for keeping a Bastard Child, to which an Exception was taken, that none of the Justices were of the *Quorum*; *sed non allocatur*; for *per Cur.* this Exception of late hath been several Times over-ruled. *Comb.* 63.

Trin.

Trin. 6 W. III.

199. **HOLT** Chief Justice, in a Case of Bastardy, Part of an Order may be reversed; and Part stand. *Idem* 264.

Frenly's Case.

200. She was removed by two Justices from *Orpington* to *Chevington*, thence by two Justices to *Bromley*, and she voluntarily returned to *Orpington*, and there bears a Bastard Child. It was not said in the first Order, that the two were Justices.

Holt Chief Justice : It should be said that they were Justices, & *Quorum unus*, tho' the *Quorum* is often omitted; for it is a special Authority out of Sessions; 'tis said she came to settle contrary to Law, but they should state the Fact, not the Law; for *ex facto jus oritur*; if there appear any Fraud in conveying a Woman to bear a Child in a Parish, yet the Child may be sent with its Mother to the Place of last Settlement. *Idem* 285, 286.

Haines's

Haines's Case.

201. An Order was made at the Sessions, that an Order of two Justices touching the Settlement of *A.* be discharged, and that *A.* be settled at *B.*

Cur. They could only discharge the Order of two Justices; therefore let that Part be confirmed, but they could not appoint a new Place of Settlement; therefore let that Part be quashed; for the Court may confirm in Part, and quash in Part, as is frequently done in Orders touching Bastard Children. *Idem* 286, 287.

Hill. 5 W & M.

202. **U**PON a Motion to quash an Order for charging several Parishes to contribute to the Relief of the Poor of another Parish; it was said by the Court, that such Contribution may be by a gross Sum yearly. *Idem* 242.

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in the Court of King's Bench. 155

Mich. 6 W. & M.

Rex & Regina *versus* Inhabitants
of Knightley.

203. **U**PON an Order for Contribution to the Relief of a poor Parish, it was ruled, That the Justices may charge particular Persons, or the whole Parish, and they to levy it; but here a Sum in Gross was laid for a whole Year, which was objected, as unreasonable, for their Ability may change. Nevertheless the Order was confirmed. *Idem* 309.

Mich. 3 Ann.

The Queen *versus* Murrey.

204. **U**PON a Special Order of Sessions the Question was, If the Husband be *ultra Mare*, and during the Time the Wife be got with Child, whether this Child be a Bastard within 18 *Eliz. cap. 3. Et per Cur'*: If the Husband was out of the

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the four Seas during all the Time of the Wife's going with Child, the Child is a Bastard; but if he were here at all within the Time, it is legitimate, and no Bastard. And because it did not appear by the Order that the Husband was absent all the Time, the Order was quashed. 1 *Salk.* 122.

Mich. 5 Ann.

The Parishes of St. George and St. Margaret's.

205. **U**PON a Special Order of Sessions, wherein the Fact was stated for the Opinion of the Court, the Case was; That *H.* was divorc'd *a mensa & thoro*, and afterwards his Wife lived with one *Ellis* in Adultery, in the Parish of *St. Giles*, and had several Children called *Ellis*, and registred as his. *Et per Cur'*: When a Woman is separated from her Husband by such a Divorce, the Children she has during the Separation are Bastards; for we will intend a due Obedience to the Sentence, unless the contrary be shewed; but
if

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if Baron and Feme without Sentence, part and live separate, the Children shall be taken to be legitimate, and so deemed till the contrary be proved; for Access shall be intended: But if a special Verdict find the Man had no Access, it is a Bastard; and so was the Opinion of my Lord *Hale* in the Case of *Dickens* and *Collins*. *Idem* 123.

Trin. 4 Ann.

The Queen versus Weston.

206. **T**HE Defendant being adjudged the Father of a Bastard by two Justices, Exception was taken to the Order. First, That he was order'd to pay so much weekly to the Overseers of the Poor; *sed non alloc'*: For as before the Institution of Overseers, the Justices might in these Cases order the Money to be paid to two or three of the Inhabitants; so now they may to the Overseers. The Second Exception was, That it was said, we the said two Justices *doth* adjudge, &c. which is the Singular instead of *do*; and 1 *Cro.* 489. was cited to make

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make this good. That was an Indictment on 13 *H. 7. cap. 3.* against *Fullwood* and others, *quod ipsi cepit for ceperunt*; but the Roll of that Case being searched, which is in *Hill. 13 Car. 1. Rot. 24. inter plarita Coron.* the Indictment was *ceperunt* and not *cepit*; wherefore this Order was quashed. *Note*; This Cause came into Court *Pasch. 4 Ann.* by *Habeas Corpus*; and the Case was, that *Weston* had appeal'd to the Sessions where the Order was confirmed, and he committed for not paying the Money order'd. And *Mr. King* took this Exception to the Return of the *Habeas Corpus*, *viz.* That the Sessions should have proceeded against him upon his Recognizance. *Et per Hon. Ch. Just.* if they proceed on 18 *Eliz.* the Sessions has no Power to commit, but to proceed on his Recognizance. But if on 3 *Car. 1.* the Sessions may commit as the two Justices might have done; that is, unless the Party put in Security to perform the Order, or to appear at the next Sessions. *Idem*

122.

Hill. 5 Ann.

The Parish of Budworth and Township of Damply.

207. **U**PON an Order made thirty Years ago, on the Parish of *Budworth*, for Maintenance of a Bastard Child, born in the Township of *Nether Damply* within that Parish, which Order was now removed before the Court by *Certiorari*, It was held,

First, That an Order made upon the Overseers of any Parish by two Justices, for raising a Sum towards the Maintenance of a Bastard or poor Person, does not determine the Settlement of that Person in that Parish; for the Right of Settlement is not contested but presumed.

Secondly, That the Clause in the Statute of 13 & 14 Car. 2. cap. 12. which provides, that distinct Townships of large Parishes in the Northern Counties, shall respectively provide for their Poor, under the Penalty mentioned in 43 Eliz. cap. 2. must

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must be understood with Respect to Maintenance of poor and impotent Persons, and not with Respect to Bastards, who are provided for by other Statutes. But if a Bastard be grown up, and by Accident grow impotent, he may be relieved as a poor Person within that Statute. *Idem* 123.

Mich. 5 W. & M.

208. **A**N Order that the Father of a Bastard Child should allow 2 s. a Week for seven Years, and that the Mother should keep it, was allowed good and consistent. *Comb. 332.*

Mich. 12 Ann.

The Queen versus Odam.

209. **O**Rder for Maintenance of a Bastard Child was excepted to by Mr. Page; because the Defendant is upon Sight of the Order to pay 9 l. in Gross, and after that so much weekly. *Et per Curiam:* By the Statute, the Justices are

to take Order for Relief of the Parish, and keeping of the Child by Payment of Money Weekly, or other Sustainment; and this may be only indemnifying the Parish for Money laid out before the reputed Father was found. 1 *Salk.* 124.

Pasch. 7 W. III.

Walton versus Spark.

210. **D**EBT upon a Bond, conditioned to save a Parish harmless from *John Goslin*, his Wife and Children; The Defendant pleaded the Parish was not damnify'd, &c. The Plaintiff replies, that *Joseph Goslin* (Son of the said *John*) became Poor, and that two Justices made an Order that the Parish should pay 2s. per Week for the Maintenance of *Joseph*, his Wife and Children; and by Virtue thereof the Overseer, the 14th of *September*, &c. paid 2s. for one Week then past, and that 8d. Part thereof was for the Maintenance of *Joseph*. The Defendant rejoins, that *Joseph* was able to maintain himself,

M

absque

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absque hoc, that eight Pence was paid for the Maintenance of *Joseph* ; whereupon the Plaintiff demurs. And it was resolved by the Court, 1. That this Traverse was immaterial ; for a Traverse should be always of such Part, as, if found for the Defendant, would destroy the Plaintiff's Action. *Vaugh.* 8. Here the Wife and Children of *Joseph* are Part of his Family, and Relief for them is Relief for him ; for he is bound by the Laws of God and Nature to provide for them, and therefore he might become impotent by the Charge of his Children : If *Joseph* were dead, the Wife and Children are not within the Bond. *Holt* Chief Justice said, that if a Man marries a Grandmother with whom he hath any Estate, and she dies, he must maintain the Grandchildren, tho' the Relation be determined. *Bulst. Gerard's* Case, and the Word Children in the Statute is extended to Grandchildren, because there is the same natural Affection ; but not so here where the Circumstances of the Man were the Inducement ; but it may include Children born afterwards.

2. The

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2. The Traverso is two narrow, for if six Pence had been for *Joseph*, or one Penny, the Bond is forfeited. *Dyer* 115. *Inst.* 282. 1 *Saund.* 269. *Osborn & Rogers*, & 312. *The King ver. Hilderby*, 1 *Bulst.* 116. *Telv.* 225. *Newhall ver. Barnard.* And *Holt* noted the Difference between the Case of *Oaks*, *Inst.* 282. and the Case of *Osborn and Rogers*; for in the latter the Plaintiff was to recover Damages *pro tanto*; but in the Former, the Finding for one *Oak* goes to the whole Forfeiture of the Bond; and so would any lesser Sum have done here; but he that pleads an Order to allow eight Pence, cannot give in Evidence an Order to allow a less Sum; for it is an entire Thing, and therefore *Holt* said the Order should be traversed, as set forth, and not like the Case of the *Oaks*, where Waste or not Waste is the Substance.

And whereas it was objected, that the Justices could not make such Order for Payment of a certain Sum weekly; the Court seem'd to be of the same Opinion, but said they do it all over *England*; & *Communis*

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error facit jus; but however that is not
now the Question, for if the Parish paid it,
it is a good Breach, and then the Breach
being well assigned, the Averment of the
eight Pence (which led the Defendant out
of the Way) is Surplusage and Nugation.
Judicium pro Quer. Comb. 320, 321.

Pasch. 10 W. III.

211. **A**N Order made by two Justices of
the Peace saith, that such Men
(by Name) with their Wives and Children
were lately come, &c. and then orders, that
they and their Families should be removed;
which *Holt* said was too incertain, for it
may comprehend more than came in, and
therefore he inclined to quash it. He said,
Justices may make one Order to remove
several Families, and upon Appeal to Ses-
sions they may reverse it *quoad* One.

A poor Man ought to have Notice, and
to be heard before he be removed, if it can
be, 'tis fit it should be so, but not absolutely
necessary.

A Ser-

A Servant well settled being with a Master removable, cannot be removed with him, by 42 *Eliz.* but the Master may complain upon the Retainer.

A *Mandamus* to sign a Poor's Rate was directed to the Justices of the Peace of the Precinct of the Cathedral Church of *Norwich*. They return, that for several Years past Complaint was made, that the Poor's Rates were unequal, and that upon Examination they found, that they did not assess by an equal Pound Rate; and they give several Instances of the Inequality of one Assessment. And that one of the Overseers brought another Rate, which they thought more equal, and signed that.

Montague moved for a peremptory *Mandamus*, and cited *Sid.* 337. Case of *Peterborough*. He said the Church-warden and Overseer may fix the Rate by their Discretion; and 'tis not necessary to be by Pound Rate; they might have respect to the Number of the Family, &c. *Dalton*, cap. 73. fol. 149. the Person grieved hath Remedy by Appeal; And as to this Point the Court agreed, that the

Rent is no standing Rule, for Circumstances may differ, and there ought to be regard *ad statum & facultates*.

Then it was urged by Sir *Bartholomew Shower* for the Justices, that the *Mandamus* should not have been to sign a Rate already made, but to put the Act of 43 *Eliz.* in Execution; 'tis to be by and with the Consent of the Justices, in like Manner as the Church-wardens are to have the Consent of the Parishioners; there is no such Word in the Act assigning it; what if the Justices be of Opinion, that it is unequal (whether it be so or not) shall they be compelled to sign it?

Holt Chief Justice *Hesitavit*, and said it is to be a reasonable honest Discretion, not Humour, sure the Justices are under an Obligation to consent; and this *Mandamus* had been better, if it had been to consent. But here the Rate refused was made by one Church-warden and Overseer, and the Justices have confirmed another made by another Church-warden and Overseer; perhaps neither was good, but why had not the Justices Election. *Cum.* 478.

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212. **A** *Mandamus* being granted to the Justices of Nottingham to sign a Poor's Rate for the Parish of *St. Mary*; they pretend some Tenements are assessed which are out of the Parish.

Holt Chief Justice: If the Justices return, that you have assessed some Places out of the Parish, you are at a full Stop: Who can bring any Action. *Idem* 483.

Hill. 7 W. III.

Inhabitants of Wotton Rivers
and Marlborough.

213. **M**oved to quash an Order of two Justices of the Peace for the Settlement of a poor Person, &c.

1. *Object*. That the Order recited, that upon Complaint made concerning the Person, &c. they had so ordered, &c. and did not appear by the Order who it was that made the Complaint; and the Justices of

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Peace have no Power to remove any Person, but upon the Complaint of the Church-wardens and Overseers of the Poor, and therefore it ought to be so expressed in the Order to give them Jurisdiction.

2. It was not alledged in this Order, that the Person removed, &c. did not rent 10*l.* per Ann. in the Parish from whence he was removed; for if he did, he is not removeable, tho' he is likely to be chargeable.

To the first of these *Obj.* it was answered, That admitting 'tis necessary, that it should appear the Order was made upon the Complaint of the Church-wardens and Overseers of the Poor; yet the Defect was helped by the Special Return of the *Certiorari* by the Justices of the Caption, &c. where 'tis expressly alledged, that the Order was made upon the Complaint of the Church-wardens, &c.

And as to the other *Obj.* it was answer'd, That upon Search in the Crown-Office, most of the Orders of Settlement there filed, are without Allegation of not rent-

ing

ing 10*l.* *per Annum*, and yet a great Number of them were confirmed by this Court.

And after several Debates, it was resolved *per Curiam*, That the last Objection of not renting 10*l.* *per Annum* was not material, especially because of the Precedent mention'd *ut supra*; so that this Order was quashed upon the first Objection only.

For *per Curiam*, 'tis absolutely necessary, that in the Body of the Order it should be expressly shewn, that it was made upon the Complaint of the Church-wardens and Overseers of the Poor; for otherwise the Justices have no Authority to make it. And the Special Caption made upon the Return of the *Certiorari* could not help the Defect in the Body of this Order, for that ought to be sufficient of itself. *Carth.* 365, 366. 2 *Salk.* 492.

Mich.

Mich. 2 Ann.

214. **W**HEN a Statute gives a Penalty to be recover'd before Justices of Peace, and prescribes no Method, it ought to be by Bill: *Per Holt Chief Just.*
2 *Salk.* 606.

The Inhabitants of St. Andrew's
Holborn, and St. Clement's
Danes.

215. Upon a *Certiorari*, the following Orders were removed into B. R.
First, An Order made at the General Quarter-Sessions of *Middlesex*, 1704, which recited an Appeal made at the General Sessions of the Peace for the same County in *September* 1704. by the Parish of *St. Clement Danes*, against an Order of two Justices, to remove one *Mary Gear* from *St. Andrew's Holborn*, to *St. Clement Danes*, as the Place of her last legal Settlement; and that it was thereupon ordered

dered, That the said Appeal should be determined such a Day this Sessions, and that the Church-wardens, &c. of *St. Andrew's Holborn* should then attend, and then went on and ordered, That forasmuch as it appear'd to the Court upon Oath, that a Copy of the said recited Order was serv'd upon the Church-wardens, &c. of *St. Andrew's Holborn*; and for that the Church-wardens, &c. of *St. Andrew's Holborn* had neglected to attend, the Court allows the Appeal. Secondly, An Order which recited, That whereas the Church-wardens, &c. of *St. Andrew's Holborn* had then paid in open Court to the Church-wardens of *St. Clement Danes* 40 s. Costs allowed to them, because the Church-wardens of *St. Andrew's Holborn* had neglected to attend; upon which the Appeal was allowed, and the Order of the two Justices vacated; and then ordered, That for good Reasons shewn unto this Court, It is ordered, that the said recited Order of this Court made on *Monday* last, be vacated and discharged, and that the said Appeal be rehear'd. Thirdly, An Order setting forth, That
upon

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upon hearing the Appeal of *St. Clement Danes*, it not appearing that *Mary Gear* had any legal Settlement in *St. Andrew's Holborn*, or elsewhere, save in *St. Clement Danes*; this Court doth dismiss the said Appeal, confirm the Order of the two Justices, and order the said *Mary Gear* to be continued in *St. Clement Danes*. Mr. *Darnel* moved to quash the Second and Third Orders; he argued, That the Hands of the Court were tied up by the first Order of Sessions; *sed tota curia contra*; and *Holt* Chief Justice said, That during the Sessions, the Order was in the Breast of the Court; and tho' it was drawn up, yet it was so far in the Breast and Power of the Court, that by the Second Order it ceased to be a Record. The Court at the *Old Baily* have altered and set aside their Judgments ten Times the same Sessions; where Judgment *de pain fort & dure* has been given, the Court have after let him in to plead, and after upon his Trial, he has been convicted, and has had another Judgment against him to be hanged: So it is of Judgments here, which during the same

Term

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Term are in the Breast of the Judges; but then he said, they ought to set the first Order wholly aside, and have entered up the third Order as the only Order; for the Effect of the Court's setting aside of the first Order is, That it ceases to be an Order, and consequently ought not to be returned to us as an Order vacated by another Order; but it should have been annulled, and made nothing: As in this Court we cannot enter up one Judgment upon Record, and then enter a Vacat of that, and then enter a contrary One: The Sessions as well as the Term is but one Day in Law. But the Matter was referred to the Three Puisne Judges, & *sic quievit.* *Idem* 606, 607. *Ho.* 511, 512.

Hill. 3 Ann.

The Case of Foxham Tithing.

216. **A** Justice of Peace was Surveyor of the Highway, and a Matter which concerned his Office coming in Question at the Sessions, he joined in making the Order,

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der, and his Name was put in the Caption.
Et per Holt Chief Justice, it ought not to
be ; as if an Action be brought by the Chief
Justice of the Common Pleas in the Court
of Common Pleas, the *Placita* must be
coram Ed'ro Nevil Mil. & Sociis suis, and
not *coram Thoma Trevor, &c.* and it was
quashed. *Idem* 607.

Mich. 9 Ann.

The Inhabitants of South Cadbury
and Braddon.

217. **O**N an Appeal to the Sessions the
Court discharged the first Or-
der, and now Mr. *Earl* moved to set aside
the Order of Discharge, because the Ju-
stices do not say whether they discharge it
for Form, or on the Merits ; for if it was
for Form, the Parish is not bound ; but if
on the Merits, the Parish in Consequence
is hereby discharged for ever. *Et per Cur.*
1st, The Justices are not bound to express
the Reason of their Judgment in the
Judgment, no more than other Courts ;

and if it was otherwise held in the late Chief Justice's Time, it past without due Consideration. The Reason of their Judgment must be collected from the Record; as where Judgment is arrested upon an Insufficient Indictment.

If the Sessions reverse the first Order, that being removed appears to be good, this Court must intend it was reversed on the Merits, and affirm the Order of Sessions.

If the Sessions reverse the first Order, and that being removed, appears not to be good, we must intend it was reversed for Form, and affirm the Order of Reversal.

So if the Sessions affirm the first Order, and that appears to be good, we must affirm the Order of Sessions.

But if the first Order appears bad, and the Sessions affirm it, this Court must reverse it, because it appears naught. *Idem* 607, 608.

Pasch. 4 G. II.

The Parishes of Symson and Woughton in the County of Bucks.

218. **A**N Order of two Justices to remove the Father and three Children from the one Parish to the Other; and the respective Ages of the Children were set forth in the said Order, viz. One of Six, Another of Eight, and the Third of Nine Years; upon Appeal to the Sessions, the Order of the two Justices was reversed as to the Children, who were sent back to the Parish from which they were so removed; but the Order was confirmed as to the Father: And the said Orders being now before the Court by *Certiorari*, it was moved to quash the Order of Sessions, because the Children being of tender Years, should have gone along with the Father to the Place of his Settlement. But it was answered, and held by the Court, That the Order of Sessions does not set forth the Ages of the Children; and then

as the Justices have Jurisdiction, it must be intended they determined Right, viz. That the Children were not of the Ages set forth in the original Order, tho' that Reason is not given; but it would be otherwise, if the Reversal were founded upon a Reason, not warranting the same. And a Difference was taken between an Order of Reversal, and an Order of Confirmation, for this must be taken to pursue the original Order, and to be founded upon the same Reasons, and therefore must fall to the Ground, if the original Order be erroneous. The Order of Sessions confirmed. *Fitz-G. 254.*

The Parishes of Molsworth and Goring.

219. A poor Man gained a Settlement at *Molsworth*, and was afterwards hired by two Partners of a Boat at *Goring*, for a Year, to serve in the said Boat, which ply'd between *Goring* and *London* for the Year. And whether by the said Service, the Party gained a Settlement at *Goring*,

N

was

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was the Question *Et per Curiam* [This is not to be distinguished from the Case of a Man taken on Board a Ship, in which he serves for a Year ; and there held, no Settlement is gained thereby ; and so it was holden in this Case in Affirmance of an Order of Sessions. *Idem* 255.

Trin. 9 W. III.

Jerrison's Case.

220. **H**E lived with Sir *Paul Jenkinson* as his Foot-boy for three Years, without any certain Retainer or Wages ; then Sir *Paul* put him to a Barber to be taught to shave, and he lived with the Barber in another Parish for one Year ; and this being specially returned in an Order of Sessions in the County of *Derby*, *Holt* Chief Justice : The Service to Sir *Paul Jenkinson* for one Year as his Foot-boy, seems to be a good Settlement, tho' he had no Wages, and tho' not hired for any certain Time, but at Will and Pleasure. Upon Stat. 4 Jac. 2. Notice was intended

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intended to be to a Person disturbable; they cannot disturb a Servant; but the Question is upon the Words in the late Statute (if hired for a Year, such Service, &c.) Now suppose he serves forty Days, is not that a Settlement, for the Act refers to 13 Car. 2. but yet if it be so, then the Words of the late Statute are to no Purpose, so that I am more in Doubt since the Explanatory Act than before.

Sed per Curiam, His living with the Barber makes no Settlement, for he was there only for his Education, and was not under any Obligation to serve the Barber. Comb. 445.

Hill. 9 W. III.

The Parishes of Cockfield and Boxon.

221. **A**N Order was made at the Sessions, upon an Appeal; afterwards at a subsequent Sessions, they set aside the former Order of Sessions, being of Opinion it was obtained by Surprise.

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Holt Chief Justice : We must set this Order aside, for they have no such Authority. 2 *Salk.* 477.

Northy : The Order of the two Justices is the 1d of *April*, and the Sessions held by Adjournment the 27th of *April* ; it doth not appear to be the next Sessions unless they shew the Beginning of it.

Holt : It may be the next Sessions might begin the Day before, they do not use to shew the Commencement. *Comb.* 418, 419.

Trin. 6 W. III.

Blood's Case.

222. *RObert Blood* and his Wife were removed by two Justices to *Foston*, where he had exercised the Trade of a *Smith* for one Year, and worked for, and was employed by most of the Inhabitants, and by the Lord of the Manor, and the Justices of the Peace ; this Order was reversed at the Sessions ; and now both Orders were returned hither, reciting the special

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cial Matter that he was an Apprentice in *Dalbury*, and that he had not given any Notice in Writing, nor was assessed, nor bore any public Office in *Foston*: And now the Order of Sessions was confirmed; for tho' such Things might have been allowed for Notice before the late Act, yet now it being an Explanatory Act, must not be enlarged by Equity; we are confined to it.

Holt Chief Justice: Payment of the Land-Tax hath been held a sufficient Notice, where charged and paid in a Parochial Limit, tho' not a Parochial Tax. *Idem* 410. *Carth.* 396.

Mich. 7 W. III.

The Parishes of Talborn and Boston.

223. **I**T was held, That if a Man is taxed, and after Taxation stays in the Parish 40 Days without giving Notice, 'tis no Settlement within the new Statute, unless he pays the Tax; for it must be

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Taxing and Paying, and not Taxing only that makes a Settlement, and is equivalent to Notice in Writing. *2 Salk. 523*

And any public Office in which the
Trin. 6 W. III.

234. Ruled, That the Rating a poor Occupier of a House for his Landlord, to the King's Taxes, is a Rating him within the new Explanatory Act to make a Settlement. *Comb. 282.*

Land-tax hath been held a sufficient Notice where there is a Parochial Tax.
Trin. 11 W. III.

Idem.
The Parishes of Beckenham and Camberwell.

225. A Question was made upon 8 & 9 *W. 3. cap. 32* which enacts, That an unmarried Person hired for a Year, shall not be settled, unless he serves the whole Year; whether that extended only to Cases that might happen after the Act, or to such also as had happened? *Ex per Cur.* To such only as may happen after the Act: It can have no Retrospect, but declares a Law

Law for the Future, notwithstanding the Words, declared and enacted. Adjudged upon a Special Order. 2 Salk. 525, 526.

of, be removed or discharged, but held that the Master was not bound to do so. **Pasch. 1 Ann.**

The Parishes of Farringdon and Wictry.

226: **A** Servant came into the Parish of S. was hired for a Year, and having served half a Year of the Time, married a Woman in the Parish of Wictry: And the Question was, 1st, Whether the Justices on Complaint of the Church-wardens could make an Order to remove him to the Place of his last legal Settlement; 2^{dly}, Whether his Serving here would not gain a Settlement? To the first Point it was admitted, That the Contract between the Master and Servant was not dissolved by the Marriage; and that admitting it might be dissolved by an Order made on Complaint of the Master, yet without that, and upon Complaint of the Officers only, it could not be dissolved; therefore Broderick. (of

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Counsel) admitted, that the Justices could not in the principal Case so remove him, as that he could not come to serve his Master, but held he might be removed, so as that the Order should disturb him, and prevent a Settlement; and this he said was a Medium that would neither prejudice the Contract, nor evade the Statute. He compared it to an Order to remove on 14 Car. 2. before forty Days Stay; in which Case the very making of the Order obstructed a Settlement; and it may be executed after the forty Days. *Holt Ch. Justice, and Powell contra.* That an Order to disturb him, and not to remove him, was not within the Meaning of the Act disturbing him; without a Power to remove is vain; and this does not unsettle, nor is it like the Case of forty Days. 2dly, It was questioned, whether such a Stay, &c. would gain a Settlement; because the Statute makes the Party's being unmarried, a Qualification as well as his Stay; viz. if any such Person being unmarried, being hired, &c. such Service, &c. so that the Words *such Service* go

to

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to all, not only the Stay, but the State of the Party. To this *Powell* inclined, *Holt* Chief Justice *contra*; such is only such Service, and the Marriage does not hinder the Service; the Contract continues; and suppose the Woman, he marries be of the same Parish, shall not that gain a Settlement. *Idem* 537, 538.

Rasch, 2 Ann.

The Parishes of Farringdon and Wilcot.

27. *H.* Being single, was hired for a Year; after he had served three Quarters of the Year, he married, and the Justices removed him to his Place of last legal Settlement. *Ex per Cur.* The Contract being good, the Justices have no Power to remove him from his Master before the End of the Year; for they cannot annul the Agreement between Master and Servant, unless it be upon Complaint of the Master. Settled or not settled, was not before the Court. But as to that, *viz.* whether

whether such Person serving out the Year would gain a Settlement? *Holt and Gould* held, the Word unmarried went only to the Hiring. *Powell contra*, That it went to the whole Service by reason of the Word such. *Idem* *supra* and *supra* *contra*; and it was held, that if a Person shall not gain a Settlement in the same Parish, he shall not gain a Settlement in another.

Harrison *versus* Lewis.

228. Moved to quash an Order made at the Quarter-Sessions in *Coventry*; The Case was, *Lewis*, with his Wife and Children, were settled in the Parish of *A.* and from thence they removed to the Parish of *B.* where the Husband gained a Settlement; but the Parish of *A.* having given a Certificate to the Parish of *B.* that they (the said Parish of *A.*) would receive them again whenever *Lewis* should become chargeable to *B.* and he now being chargeable, they obtained an Order from two Justices to send him and his Wife and Children to *A.* again; which Order was confirmed upon an Appeal to the Sessions; and he was sent thither accordingly, but the Order was quashed, for tho' it was according

according to the Agreement made between the two Parishes, yet a private Agreement in this Case shall not alter the Law. 3 Salk. 253.

The King versus the Parish of St. Nicholas in Abingdon.

229. One Dickinson was an Inhabitant of the Parish of St. Helens in Abingdon, where he had four Children, and removed from thence into the Parish of St. Nicholas, where he lived some Time, and was taxed to the Poor there, but was removed back to St. Helens before he paid the Tax, and there he died; afterwards his Children were by Order of the Justices removed into the Parish of St. Nicholas, for that their Father had gained a Settlement there, by being taxed to the Poor; and this by Virtue of the Statute 3 & 4 W. 3. But *per Curiam*, there must be Paying as well as Taxing, to make a Settlement by that Statute. *Idem ibidem.*

**The King *versus* Inhabitants of
Oking.**

230. One *James Tully*, his Wife and Children, were removed by an Order of two Justices, from *Oking* to *Horsewell*, who appealed to the next Sessions, and there an Order was made to supersede the Order of the two Justices, and for that it did not appear to them, that the said *James Tully* (saying nothing of his Wife and Children) had a Settlement at *Horsewell*, and therefore they order him and his Wife and Children to be removed to *Oking*. These Orders being removed by *Certiorari*, it was objected, that the Order appeared to be made by the Justices, &c. at the Sessions holden for the County of *Surrey* at *Kingston upon Thames*; and it doth not appear by the Order, that *Kingston* was in the County of *Surrey*; but the Word *Surrey* being in the Margin, this Objection was over-ruled. The next Objection was, that it doth not appear by the Sessions Order, but that the Wife and Children might be

in the Court of King's Bench. 189

settled at *Horswell*; for it only sets forth, that *James Tully* had no Settlement there, which may be true; for he may be a Vagabond, and yet his Wife and Children may be settled there; the one by having a Freehold, and the other by being Apprentices; but *per Curiam*, this Exception was disallowed; for wherever the Husband is settled, there the Wife must likewise be settled. In the next Place it was objected, that the Sessions having only Power to repeal or affirm, but not to supersede the Order of two Justices. *Per Cur.* Supersede is not a proper Word, there is a Difference between a *Supersedeas* and a Repeal: A Commission of *Oyer and Terminer* may be superseded, and revived by a *Procedendo*, without granting a new Commission, but that cannot be done in Case of a Repeal; yet this Word is commonly used amongst Justices of Peace upon such Occasions, therefore they would not quash it, but referred it to a Judge of Assize. *Idem* 256.

The

The King *versus* Inhabitants of Winsly.

231. One Mary Tully, a poor Woman, was, by Order of two Justices, removed from Beverley to Naseborough in the West-Riding of Yorkshire, that being adjudged by them to be the last Place of her legal Settlement: Naseborough appeals to the next Sessions; and thereupon an Order was made, reciting the Difference between Beverley and Naseborough; but that it appeared to them, that this Woman was last legally settled at Winsly, which was a third Parish not concerned before; and so she was by that Order removed to Winsly; but it was quashed, because the Sessions had no Jurisdiction, but only to affirm or reverse the Order between the contending Parishes, and not to make an Order to charge a third Parish. *Idem* 254.

Mich.

Mich. 8 W. III.

232. *Brewer*, excepted against an Order of two Justices to remove a poor Person. 1. That it is not said in the

Order that the Man did not rent 10 *l.* per *Ann.* 2. That it doth not appear that one of the two Justices was of the *Quorum*.

Holt Chief Justice: That the first *Obj.* had been solemnly over-ruled, but for the 2d Exception, the Order was reversed, and then the Order of Sessions falls to the Ground.

And the next Day in *Pool's Case*, he the Chief Justice said, the Order should begin, *Whereas Complaint hath been made un-to us two Justices, &c. Quorum unus by, &c. Comb. 400.*

Honiton and S. Beverton Parishes.

233. Two Justices remove a Man from *Honiton in Com' Devon*, to *South Beverton in Com' Somerset*. They appeal to the Sessions in *Devon*, where the Order is reversed.

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versed. Now two Justices in *Somerset*, may by Order remove him to *Honiton* again; for 'tis but an Execution of the Order of Sessions, which could not otherwise be done, because 'tis out of the Jurisdiction of the Court of Session. *Idem* 401.

Mich. 8 W. III.

Bull's Case.

234. TWO Justices make an Order to remove him to *D.* They appeal to the Sessions, where it is ordered that he be removed to a third Place, which is ill; for they can but affirm or reverse. And the Order of Sessions was reversed. *Idem* 396. See 231.

Trin. 6 W. III.

Wale's Case.

235. *PER Holt* Chief Justice: If a poor Person be removed from one Place where not legally settled, the Sessions
I upon

in the Court of King's Bench. 193₁

upon Appeal may quash the Order, but cannot remove her to a third Place. *Idem* 286.

Hill. 4 Ann.

236. *PER Holt* Chief Justice: The most regular Way for Justices to proceed upon 14 Car. 2. in removing a poor Person, is to make a Record of the Complaint and Adjudication; and upon that to make a Warrant under their Hands and Seals to the Church-wardens, to convey the Persons to the Parish to which they ought to be sent, and deliver in the Record *per proprias Manus* into Court next Sessions, to be kept there amongst the Records by a General *Certiorari* to the Justices of Peace.

Mr. *Broderick* said, he had advised the Justices in *Surry* to do so. 1 *Salk.* 406.

Mich.

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Mich. 6 W. & M.

237. **A** Man and his Wife and Family remove into a new Parish; the Minister, Church-wardens and Inhabitants of the old Parish certify, that they own them, and all the Children, which shall be born of them as their Parishioners; Nineteen Years afterwards two Justices make an Order to remove them to the old Parish, with seven Children born since, reciting the Certificate, &c. this Order was confirmed at the Sessions. And now both Orders were quashed; for *per Curiam* they have obtained a Settlement in the new Parish. *Comb.* 292, 293.

Trin. 8 W. III.

*The Parishes of St. Nicholas and
St. Helen.*

238. **T**WO Orders were made for settling one *Rice* a poor Man; the first by two Justices; the other by the Sessions

Sessions on Appeal, confirming the Former: The Fact was, *Rice* being six Years ago legally settled at *St. Nicholas's*, clandestinely came into the Parish of *St. Helen*, and lived there without giving Notice to the Officers of the Parish of *St. Helen* during all that Time; they sent him back to the Parish of *St. Nicholas, &c.* And the Question was, whether living in *St. Helen's* so long as six Years, should not induce the Court to presume Notice, and other Things requisite well done to gain a Settlement? *Et per Cur.* No Person, that is not a removeable Person, is to give Notice; as he that rents a Tenement of 10 *l. per Annum*, a Servant, &c. need not give Notice, because they cannot be disturbed. In this Case, if it had appeared upon the Order, that the Parish of *St. Helen* had taken Notice of him, and looked upon him as one of the Parish, as by relieving him, making him an Officer, &c. There after so long a Time, we would have presumed Notice given, because the Notice need not be exactly proved; for the Churchwarden to whom it was given, and the

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Witnesses attesting the Matter, may be dead; but here 'tis return'd on the Order, that he clandestinely removed himself, so that he might easily continue in the same Manner; wherefore in such Cases we must construe the Statute strictly; and therefore the Order was confirmed. 2. *Salk.* 472, 473.

Trin. 8 W. III.

239. *PER Holt* Chief Justice: If a poor Man hath been relieved several Years in a Parish, I should presume Notice in Writing; but 'tis but Evidence to the Justices. A Servant, or one that rents 10*l.* *per Annum*, need not give Notice, for they may not be disturbed: Here the Justices by their Order have determined it to be a clandestine Habitation, and we must take it to be so, tho' the Party did live six Years in the Parish. *Comb.* 382.

Mich.

Mich. 3 Ann.

Parker versus Clerk.

240. **S**UIT was in the Spiritual Court by a Parish-Clerk against the Church-wardens for so much Money, by Custom due to him yearly, and leviable by them upon the Parishioners: And now a Prohibition was moved for, upon Suggestion of no such Custom.

To which it was objected, That if there was no such Custom, they should have pleaded it below; and if, without receiving that Plea, they would proceed, then would be the proper Time for a Prohibition; but they came for a Prohibition too late, *viz.* after Sentence.

Holt Ch. Just. I know no Case where one comes too late for a Prohibition after Sentence, but that of suing one out of his Diocese: Indeed, if a Suit be there for a *Modus*, and the Defendant pleads Payment, he comes after too late to plead, or suggest that there is no *Modus*, because he

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has admitted one by pleading a Payment. But here the Matter lies; here is a Duty not Spiritual but Temporal, and to a Temporal Person, for such is a Parish-Clerk; and therefore we grant *Mandamus's* to restore him to his Place; And this Duty is founded upon a Custom; and if there be such a Custom, he is not without Remedy at Law; for he may have Case for not making a Rate and Levying; or if they do levy it, and not pay him, he may have an *Indebit* for Money received to his Use. But *ali dubit*, looking upon the Clerk to be an Ecclesiastical Person, and in inferior Orders, and that as such, he might sue in the Spiritual Court for a Stipend or Pension; and a Diversity was urged from the Bar in the Point of a Spiritual Person's suing in the Ecclesiastical Court for a Pension, viz. that he might well do it, only in Case of Pensions originally granted, or confirmed by the Ordinary; but that where a Pension does not originally commence by the Act of the Ordinary, there it cannot be sued for in the Spiritual Court: As if one should grant

grant an Annuity to a Parson, he cannot, as was said, sue for it in the Spiritual Court ; and for this was quoted *Cro. El.* 675. *Collier's Case.*

But *per Holt Ch. Just.* There is no Diversity ; but what sticks with me is, Whether they have original Jurisdiction here ; which, without Doubt, they have not, if they do not make the Clerk a Spiritual Person, which will be hard to do : And if they have not original Jurisdiction, one is never too late for a Prohibition.

And *per Cur'*, The Case will certainly lie against the Church-wardens upon such a Custom : As if Bailiff or Reeve of a Manor, be bound by Custom to collect Money, Case will lie against him for not doing it ; and *Indebit.* after it is received.

Mod. Cases 252, 253.

Hill. 10 Ann.

The Parishes of Gatton and Milwich.

241. **A**N Order was drawn up specially for the Opinion of the Court; and the Question was, Whether one appointed Clerk of the Parish by the Parson, and executing the Office for a Year, should gain a legal Settlement within 3 & 4 W. & M. of which the Words are *viz.* shall execute any annual Office or Charge? for it was objected, that this was not an annual Office. Mr. *Lechmere contra*. The Intent of the Act was, That no Office under an annual One should gain a Settlement, & *majus continet in se minus*. On the general Nomination to the Office of Parish Clerk, he is in for Life, *Powell* Just. His being put in by the Parson makes no Difference, no more than where the Constable is put in by the Leet, and not by the Parish; it is more than an annual Office, he is not removeable, and has

has Fees. *Eyre* Just. He is but a Servant to the Parson at Will: Where he comes in by Election, he has an Estate for Life by the Custom; but here is no Deed or Writing: How can he have an Estate for Life in this Office? *Powell* Just. At that Rate he has not an Office at Will, for a Man cannot have an Office at Will without Deed. The Office of Church-warden was by Common Law, and yet that is for a Year, without any Deed or Writing. So it is of a Parish-Clerk; he is by Common Law an Officer, and is in for Life without Deed; so ruled, *absente Parker* Chief Justice. 2 *Salk.* 536.

Pasch. I W. III.

Inter White Chappell and Stepney Parishes.

242. **T**HE Case was, one *Borer* had two Children, both born in the Parish of *White Chappell*; the Father died, and the Mother married again; and not long afterwards the Husband and Wife
ran

ran away, and deserted those Children; who were afterwards privately dropp'd in the Parish of *Stepney*; one of them being two Years old, and the other four Years old; whereupon the Children were, by Order of two Justices, removed to *White Chappell*; but that Order was vacated upon an Appeal, and the Reason expressed in the Sessions Order was, because *Stepney* could not prove, that *Borer*, the Father of the Children was ever legally settled in *White Chappell*, though in the same Order it was acknowledged by express Words, that both the Children were born in *White Chappell*.

And now it was moved to quash this Order of Sessions, the Question in Law being, if the Birth of these legitimate Children shall gain a Settlement of them where the Parent is dead, and the Place of his last Settlement unknown, and so must be esteemed as a Vagabond.

It was agreed by all, that the Birth of a Bastard Child gains a Settlement for that Child, and also that a legitimate Child gains no Settlement by its Birth, when

when the Place of the Parent's last Settlement is known, but that such Child must follow the Settlement of the Parent.

Sed per Curiam: This Order of Sessions was quashed, and the Order of two Justices confirmed; because, where the Parent is a Vagabond, the Birth of a legitimate Child gains a Settlement; otherwise it will be born a Vagrant. *Carthew* 433, 434.

Trin. 6 W. & M.

Cowred's Case.

243. SHE and her two Children landed at *Harwich* from *Holland*, and removing to another Place, were sent back to *Harwich* by Order of two Justices.

Darnel Serj. Landing makes no Settlement. *Sir Barth. Shower*, It is within the Equity of the Act.

Eyres Just. (*absente Holt*), You must keep them where you have them for ought I know; it seems to be *Casus omissus*. The Order was quash'd. *Comb.* 287. *ant.* 154.

Mich.

Mich. 5 W. & M.

Lucas's Case.

244. **ONE** *Lucas*, an old blind Man, was born at *Walton* in *Lancashire*, and about thirteen Years ago was settled as a Servant at *Huntington* in *Cheshire*, and thence removed himself, and was settled at *Stoke* in *Herefordshire*, where he became blind, and thence returned to *Walton* in *Lancashire*, whence two Justices removed him by Order, &c. to *Huntington*; Mr. *Booth* and Mr. *Hurlston*, two Justices in *Cheshire*, make an Order for removing him to *Stoke* in *Herefordshire*.

Mr. Sol. *Trevor* moved to quash the Order of *Cheshire*, for that they should not have appealed to *Lancashire*, and could not make an original Order, for otherwise the Poor would be tossed from Pillar to Post.

Curia (*absente* Holt Ch. Just.) *hesitavit*:
At another Day, Mr. *Cheshire* pray'd
that

that the Order of the Justices in *Cheshire* might be affirmed, for the Order of *Lancashire* is binding to *Cheshire*, *quoad Lancashire* (only), but doth not hinder them from finding him a new Place of Settlement; and the Statute 14 *Car. 2. cap. 12.* which directs the Persons grieved to make their Appeal to the next Quarter-Sessions, &c. cannot be taken to extend to foreign Counties. 1. Because of the Shortness of the Time, for it must be to the next Sessions. 2. Because of the Distance of the Place, which may be to the remotest Part of the Kingdom.

Holt Ch. Just. The first Order of two Justices is good, 'till revers'd; but whether the Order of *Cheshire* be good as an original Order, *hesitavit.*

Sol. Gen. The Justices of *Cheshire* can make no Order contrary to that of *Lancashire*, and consequently cannot remove him to any other Place; for the *Terminus ad quem* is Part of the Order, as well as the *Terminus a quo.*

Mr.

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Mr. Cheshire: The Order of *Lancashire* is faulty, for that *Huntington* is not laid to be the Place of his last Settlement.

Cur, That Order is already affirmed in Court, else the Exception were good.

Sol. Gen. I shall take *Mr. Cheshire's* own Exception against the Order of *Cheshire*, which hath the same Fault: And therefore it was quashed *per Cur*. *Comb.*

218, 219. *Earth.* 287, 288.

Mich. 5 W. & M.

Knight's Case.

245. A Woman was removed by Order of two Justices of the Peace to her Husband, and upon Appeal to the Sessions, it is there ordered, that the Man and his Wife be removed to the same Place whence the Woman was removed before; now upon Motion, this Order of Sessions was quash'd quoad the Husband. *Comb.* 227.

Trin. 5 W. & M.

*The Parishes of Shermanbury and
Boldney.*

246. **A** Woman was settled with three Children in the Parish of *Shermanbury*, and relieved by the Parish at 3s. per Week. A Man of *Boldney* marries the Woman, the Children follow their Mother : The Justices at the Sessions make an Order, that the Parish of *Shermanbury* should continue their Payment to the Children in *Boldney*.

Holt Ch. Just. This cannot unsettle the Children, unless the Step-Father be able. Yet *Quære*, Whether the Children being under Age must necessarily follow their Mother as Nurse-Children.

Eyres Just. Though the Father be chargeable with Maintenance, &c. yet they may not thereby be removed to another Parish ; for if so, that Parish might be charged with them after the Death of the Father.

Then

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Then it was said by the Counsel, that this Order was made originally at the Sessions, without any Appeal.

Eyres Just. In some Cases the Justices may make an original Order at the Sessions, as to charge the Grandfather, &c. *Adjournatur.* *Comb.* 208.

Pasch. 8 Ann.

The Queen and Milverton Parish.

247. **U**PON an Appeal to the Sessions, they make an Order, that the first Order should be quashed; and the Party sent to the Parish from whence he was thereby removed; it was agreed, the Justices of the Sessions had only Power to affirm or quash the former Orders, but not to make a new One; but because an Order may be good in Part, and void for other Part, that Part which ordered the poor Person to be sent back was quashed, and the Rest confirmed. *Far.* 10.

248. It is a Rule of Court, That no Order of Justices, whereof an Appeal lies, be brought hither by *Certiorari* till after Appeal ; and if any be, that it be sent back by *Procedendo*, for the original Order does not come up, but the Tenor of it, as appears by the very Words of the Return. *Far.* 10.

Mich. 8 Ann.

The Queen *and* The Inhabitants of
Caple.

249. **O**Rder of two Justices was to remove a Man and his two Children out of the Parish of C. where he might become chargeable, he having not rented a Tenement of 10*l.* a Year. Held, That saying they might become chargeable, was not well ; but it should be, that they were likely to become chargeable : But it was held, that saying they had not rented 10*l.* *per Annum*, did suffice ; it was held bad as to the Children, for they are only removable, as Persons not
P settled,

settled, and likely to become chargeable, or so young as they are not able to provide for themselves : And it was quashed as to the Children. *Far. 54.*

Trin. 7 W. III.

India Company *versus* Skinner &
al' Trans.

250. **T**HE Defendants being Collectors of the King's Tax, pleaded the General Issue; and upon Evidence it was objected, their Warrant was to break open, in Case of Opposition, &c. and this Warrant was granted before any Default, which ought not to be, no more than a Warrant to distrain for Poor's Rates before Demand made; for the first ought to be only a Confirmation of the Assessment for the Poor; and afterwards, upon Refusal, a new Warrant is to be made for Distress, &c. And *Holt* said, strictly it was so; but the Practice having been in this Case of Taxes, to grant such a conditional Warrant to distrain, *Communis Error facit jus.*
And

And he said it was clear, they might distress Money as well as Goods; and tho' they took more than was due, yet it sufficeth, that they return the Overplus when they have sold it, &c. *Comb.* 342.

Trin. 9 W. III.

251. **P**ER *Holt* Ch. Just. A Constable is an Officer but for his own particular Vill; and though he may execute Warrants in any other Part of the County (as any other Person may) yet he is not compellable to do it, though the contrary is practised in *London* by Custom. *Comb.* 446, 447.

Trin. 2 Jac. II.

252. **I**T was agreed *per Cur'*, that the Sessions may chuse a Constable and that the Order here, (which was moved to be quashed, upon Suggestion, that it was grounded upon an Offence, now pardon'd) appointing him to take the Oaths, is an Election of him, &c. He may be a

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Person not living within any Leet. And (*per Holloway*) they might have compell'd him to take the Oaths by increasing his Fine.

Cur. This Case is like a Judgment, which, if good, is irreversible, though the Crime be pardon'd. And the Order was confirmed.

Per Ch. Just. An Indictment may be quash'd, if it appear vitious, after Issue joined. *Comb.* 20, 21.

Hill. 4 Geo. II.

The King *versus* Lone.

253. **T**HE Defendant being an Inhabitant within one of the Wards of London, was chose Constable of the said Ward by the Wardmote. But he having refused to act as Constable, was indicted before the Justices of Sessions for his Refusal, and being convicted, the Indictment was removed into this Court by *Certiorari*: Now it was moved by *Abney*, in Stay of Judgment, that the Leet is the proper Place to chuse the Constable. *1 Ro. Ab.*

535. *Pl.* 1, 2, 541. *Pl.* 5. *1 Bulst.* 174.
Sav.

in the Court of King's Bench. 213

Sav. 93. 8 Co. Griesly's Case. 1 Salk. 175.

That the Justices of Peace have no Share in the Election of a Constable, but by the Statute 13 & 14 Car. 2. which gives them a Power in Default of the Leet, but their Choice determines by the Lord's holding a Leet: He admitted the Election was good by the Wardmote, being in Nature of a Leet. But he insisted, the Defendant for his Refusal should have been amerced by the Leet, but that the Justices had no Jurisdiction of the Matter; and so this Indictment is not to be maintained, cited *Hill. 10 Ann. The Queen ver. Dacy*; and another Case which was *Pasch. 11 Ann.* as in Point. To the Point cites also *Mich. 8 Ann. The Queen ver. Whycroft. Trin. 2 Ann. The Queen ver. Dumerter. Trin. 7 Geo. 1. The King ver. Beele. Pasch. 1 Geo. 2. Constable of Limington's Case,* and *1 Bulst. 176.* Hereupon Mr. Reeve had Time to answer the Objections. *Fitz-G.*

192.

P 3 Mich.

Mich. 6 W. & M.

*The King and Queen versus
Wildbore.*

254. **I**NDICTMENT for not assisting the Constable (upon Request) to execute the Warrant of two Justices for searching for Nets, &c. was quashed; for the Constable hath no Power to require whom he will to attend him on such Occasions, *Comb.* 309.

Mich. 5 W. & M.

*The Same against Barlow & al'
Church-wardens of St. War-
burgh in Derbyshire.*

255. **T**HE Church-wardens were indicted upon the Statute 14 Car 2. Reciting, that whereas *A. B. and C. &c.* Constables of the five Parishes within the Vill of *Derby*, had expended such Sums of Money in conveying Persons by Passes, and
that

that J. S. and E. G. two Justices of the Peace, had issued out their Order unto the Constables, Church-wardens, and Overseers of the Poor of the said five Parishes, commanding them to meet at such a Time and Place to make a Rate for the Reimbursement of the said Constables; and that the Defendants did accordingly meet, but refused to join in making such Rate. This Indictment being removed by *Certiorari* into the King's Bench, it was moved to quash it.

1. That the Warrant of the two Justices was to make a joint Rate for all the five Parishes; which is ill, because 'tis not according to the Directions of the Statute, nor equal in itself, because the Charges of several Constables may be unequal; and every Parish is liable only to the Charges of its own Constable.

2. Besides they are not compellable by the Statute to make a Rate, for the Words are that they may make one, and so at their Election.

But the Court would not quash the Indictment, because the Defendants were

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blameable, it being very reasonable that the Constables should be reimbursed ; and therefore as to the first Objection (to wit) the Inequality of the Charges of the several Parishes, it shall be taken *Reddendo singula singulis*.

And as to the other Objection, that the Words of the Statute are, that they may make a Rate, and so 'tis at their Election whether they will make one or not ; *per Curiam*, where a Statute saith that such a Thing may be done, 'tis always understood it must be done. *Carth.* 293, 294.

Hill. 9 W. III.

The King *versus* Barnard.

256. **U**PON an Indictment setting forth, That the Defendant (*tali die*) being then, and long before, a Resident of the Town of *Southampton*, and a fit Man, was duly chosen by the Mayor, Bailiffs, and Burgesses of *Southampton*, according to the Custom of the said Town, to be Constable for one Year, and until he should be

be lawfully discharged ; that 4th Oct. *notitiam habuit & requisit' fuit per Justiciar' præd' ad præstand' sacr'um, &c.* and from the 4th of Octob. had refused to take upon him the Office.

Northey moved several Exceptions to quash the Indictment,

1. 'Tis *presentatum extitit pro existit.* Holt said, that was a common Error heretofore, but now held good ; but,

2. The Principal Exception was, that they should set forth a Custom, Time out of Mind, else they have no Power, for it ought to be done at the Leet.

Holt Chief Justice: It should be *debito modo sc'dum consuetud' Vill' (hesitantur.)*

In some Places People are to be Constables by House-rows: Demur to it if you will.

And afterwards it was argued upon a Demurrer to the Indictment ; and then *per Cur'* all Constables are to be elected at the Leet by the Common Law, if there be any Leet ; if none, then at the Torn, which is the general Leet of the County. A Corporation may have Power to elect,
but

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but that must be by special Custom, and so laid; for a Corporation, as such, hath no such Power. *Judiciu' pro Def'*.

Turton J. If the Steward refuseth a Constable elected at the Leet, can the Sessions examine the Qualifications of the Person, and refuse him.

Northey: They have done it.

Holt Chief Justice: They could not do it before the late Statute. *Comb.* 416, 417.

The King *versus* Rice.

257. A *Mandamus* was directed to an Archdeacon to swear a Church-warden, who returned, that he was a poor Dairy-Man and a Servant, & *minus habilis & idoneus ad exequend' Officiu' prae'*; and this Return was held insufficient, for the Archdeacon hath no such Power. Here is a Custom laid, that the Parish should chuse, and the Archdeacon hath nothing to do but to admit. Church-wardens are a Corporation by Law, and the Successors may maintain an Action against them for the Goods

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Goods of the Parish; they are temporal Officers by Law, and intrusted with the Goods of the Parish, therefore the Parish are fittest to have the Choice and Approbation of them. *Idem* 417. *Carth.* 393.

Mich. 2 Ann.

The Queen *versus* Glin & al.

258. **T**HEY were indicted for not producing the Parish Books of Rates before certain Justices of Peace appointed by the rest to examine and make Orders thereupon, and for disobeying such Orders: And it was excepted, that this was a Delegation of their Authority, which they could not do; for tho' it were agreed, that they might appoint some of themselves to examine and state the Matter to them, and then they to make Order thereupon, yet sure they cannot delegate the Power of making Order. 2d Exception was, that Notice of the Order was not alledged.

Holt

Holt Chief Justice: I am not satisfied that they can ever refer the Examination of the Matter to a certain Number of themselves, because they are all Judges of the Fact, and therefore they transact it as Judges in Court; but allow they may refer the Examination of the Fact, and reserve the Judgment to themselves, yet doubtless they cannot give a Power to make Rates and Orders. And it was quashed. *Mod. Ca.* 87.

Trin. 2 Jac. II.

The King versus Griesly.

259. **A**N Order of Sessions was returned upon 43 *Eliz.* for rating the Parishes adjacent, &c. for Relief of a poor Parish; Exception was taken, that by the Statute this ought to have been done by the two next Justices; whereas this Order was made at the Sessions.

Sol. Gen. If it be made by all the Justices, &c. then it is by two, and they shall

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shall be supposed to be at the General Sessions.

Wythers J. You have not pursued the Statute, and do hereby prevent the Appeal; *adjournatur*. And it was afterwards quashed for that Reason. *Comb.* 25.

260. All *Certiorari's*, tho' directed to divers Justices, may be returned by one; and this is the usual Practice. *Idem ibidem*.

261. Special *Certiorari's* can't remove General Orders, tho' General *Certiorari's* will remove Special Orders. *Far.* 97.

262. Upon a *Certiorari* to remove an Indictment, the Justices of the Peace return specially, that the Defendant pleaded *Non Cul*, and a Jury was return'd, and sworn to try the Issue before the *Certiorari* was delivered, and pray the Judgment of the Court, whether they should return the Indictment.

Holt Chief Justice: No, indeed it should have been delivered before. *Comb.* 391.

Mich.

Mich. 2 Ann.

The Queen *versus* Bothell.

263. **I**F one bring a *Certiorari* to remove an Indictment, and does not give Bail to try it according to the Statute, it is no *Supersedeas*; and a Record once filed in this Court, is never sent back: Tho' *Broderick* at the Bar said it might be sent back the same Term. *Mod. Ca.* 33.

264. But after a *Certiorari* is returned and filed, no *Procedendo* can go. *Idem* 43.

265. If an Order be removed by *Certiorari*, on which Appeal lies, before Appeal, it ought not to be filed till the Court is informed of the Matter; and then they will grant a *Procedendo*, notwithstanding the *Certiorari*; per *Holt* Chief Justice, *Idem* 40.

Hill.

Hill. 9 W. III.

The Inhabitants of Dimchurch and Eastchurch.

266. **A**N Order was made at the Quarter-Sessions originally setting forth, that whereas the Parish of *Dimchurch* was over-burdened with Poor, and the Parish of *Eastchurch* had no Poor, the Parish of *Dimchurch* should be annexed to the Parish of *Eastchurch*; and that the Occupiers of Lands there, should contribute 20 *l. per Ann.* by equal monthly Payments to *Dimchurch*, as long as that was over-burden'd with Poor, and *Eastchurch* had none. And it was objected by Mr. *Brewer*, That the Justices of Peace cannot alter the Parishes, and annex one to another. 2. That the Sessions cannot make an original Order. *Per Holt* Chief Justice: There are two Ways by 43 *Eliz.* to make one Parish contributory to the Poor of another Parish, viz. either the Justices may tax particular Persons in Aid

to

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to that Parish which cannot relieve its own Poor, or they may assess the whole Parish in a certain Sum, and leave it to the Church-wardens and Overseers to levy the same, or particular Persons; which was well done in this particular Case; but so much of it as concerns the Annexing of the Parishes is void, and the rest good; but the Court took Time to consider. 2 Salk. 480, 481.

Mich. 3 Ann.

The Queen *versus* Branworth.

267. **I**NDICTMENT by Jury of the Town of *Portsmouth*, for that he being an idle Person, did wander in the said Town selling of small Wares as a Petit Chapman: And to maintain this Indictment, it was urged, That a Petit Chapman is a Vagabond by the Statute of 39 *Eliz. cap. 4.* And tho' some Petit Chapmen, that is, such as are legally qualified by the Statute of 8 & 9 *W. 3. cap. 25.* may now lawfully use that Occupation; yet that

Act excepts Boroughs and Corporations, so as to them they remain *in statu quo*.

Holt Chief Justice : Is a Vagabond, *quatenus* such, indictable ? And it seems not, for at Common Law a Man might go where he would ; but, if he be an idle and loose Person, you may take him up as a Vagrant, and bind him to his good Behaviour by the Common Law ; and by the Stat. of Labourers, he may be compelled to serve. There is indeed a Way by Law for punishing incorrigible Rogues, by burning them in the Shoulder, and sending them to the Gallies ; from whence it may be urged, that there must be a Way before of convicting them of being Rogues for they cannot be punished otherwise as incorrigible Rogues, and that first Conviction must be by Indictment.

But *per Holt* Ch. Just. No ; but by being judged by a Justice of Peace to be a Vagrant, and used by him as such ; and if he offend again, he may be indicted as a common Vagrant : Rule for quashing it was enlarged. *Mod. Ca.* 240. 3 *Salk.* 258.

Ho. 709.

Q

Hill.

Hill. 8 W. III.

Ryship and Harrow.

268. *PER Holt* Chief Justice: Having Land in a Parish will not make a Settlement, but living in a Parish where one has Land will gain a Settlement without Notice; for the Act of Parliament never meant to banish Men from the Enjoyment of their own Lands; and the Law takes Notice of Freeholders, as those that chuse Members of Parliament and are Jurors: Boarding as a Scholar gains no Settlement, no more than being nursed in a Parish. 2 *Salk.* 524.

Mich. 10 W. III.

Harrow and Ryship.

269. *A.* Comes into *Harrow*, and being likely to become chargeable was removed to *Ryship*; *Ryship* appealed; and upon the Appeal, *A.* was adjudged to be settled at *Ryship*; afterwards *Ryship* discovered

covered that *Hendon* was the Place of his last legal Settlement, and sent him thither; and the Question was, whether after the Adjudication upon the Appeal, *Ryslip* was not estopped against all the World, to say, that *Ryslip* was not the Place of his last legal Settlement. *Et per Holt Ch. Just.* *Ryslip* is estopped to say otherwise. For if *Ryslip* had not been the very Place of his last legal Settlement, the Justices must have sent him back to *Harrow*, who were first possessed of him; for that Reason, because they were possessed of him, and he did not belong to *Ryslip*. And now this is in Effect the same Question again, *viz.* Whether he belongs to *Ryslip*? which Question has been already determined by the Justices on the Appeal, who have adjudged that he was settled at *Ryslip*. Now this Point being determined, the Appeal must be final and conclusive; otherwise there would be no End of Things; and the rather as to *Ryslip*. 1st, Because *Ryslip* was Party to the Suit wherein this Determination was made, and yet *H.* may be estopped where he is not Party to a

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Suit, *per Holt* Chief Justice, who remember'd the Case of *Thornton* and *Pickering*, where it was adjudged, That if *H.* be adjudged by two Justices to be the Father of a Bastard Child, he is estopped as to all Mankind to say the contrary, and any Man may call him so at his Pleasure. The Case was, a Libel was exhibited in the Ecclesiastical Court, for saying he had a Bastard, and the Defendant suggested for a Prohibition this Adjudication by the two Justices; and the Suggestion being turned into a Declaration in an Attachment on the Prohibition, the Defendant pleaded to it, that the Words were spoken at large without any Relation to the Adjudication by the Justices. Plaintiff replied, and prayed Judgment, if he should not be estopped by the Adjudication to say he had not a Bastard.

Afterwards, *Hill* 10. this was moved again, and then *Holt* and *Gould* held the Adjudication was final as to *Ryslip* against all Persons and Places, because the Point of his Settlement as to *Ryslip* was tried in the Appeal; but as to *Harrow*, (for he had

had been formerly removed by them to *Hendon*, and that Order reversed) they were at Liberty to send him to any other Place, and were not estopped ; because the Justices on the Appeal did not adjudge him to be settled at *Harrow*, though they adjudged him now to be settled at *Ryslip*, so that the other Point was not tried. *Turton & Rokeby contra ; Adjournatur.*
Idem 524, 525.

Hill. II W. III.

Anonymus.

270. **I**F *H.* being settled at *A.* becomes afterwards a Vagrant ; some Justices have thought that to be a Determination of the Settlement ; but I never could think so ; for if *H.* be found a Vagrant within 39 *Eliz. cap. 4.* he may be sent to the Place of his Birth ; but then by 43 *Eliz. cap. 2.* he may be sent from thence as a poor Person, to the Place of his last legal Settlement ; for his being sent to the Place of his Birth, satisfies the Statute

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of 39 *Eliz.* and so both the Statutes stand together ; *per Holt* Chief Justice. *Idem* 526.

Mich. 13 W. III.

Mynton and Stony Stratford.

271. **B**Y Order of the Justices a poor Person was sent to *Mynton* : *Mynton* appealed to the Sessions, and the Order was discharged ; and then by Order the Person was sent to *Stony Stratford*, who appealed, and the Order was confirmed ; and then by another Order the Person was sent back to *Mynton*. *Et per Curiam* : The last Order to send him to *Mynton* was illegal. *Per Holt* Ch. Just. If on Appeal to the Sessions, an Order be discharged, that Judgment binds only between the Parties. But when upon an Appeal an Order is confirmed, that is conclusive to all Persons, as well as to the Parties ; for 'tis an Adjudication that this is the Place of the Party's last legal Settlement, which cannot be avoided by the
Parish

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Parish against whom it is made. It was also held, that a Parish in Reputation is liable, if there be Officers, *i. e.* Churchwardens. 2 *Salk.* 527. 3 *Salk.* 260. *Ho.* 577.

Mich. 1 Jac. II.

Sname versus Dowse.

272. **E**Xception was taken to an Order of Sessions, upon the Statute for Servants Wages; (to wit) That it doth not appear that the Servant was hired according to the Statute. Quashed. And *per Holloway J.* only Labourers are within the Statute. *Comb.* 3.

Trin. 3 Ann.

The Queen versus Corbett.

273. **T**HE Justices made an Order that *T. S.* should pay *E. G.* so much Money for Labour and Work done, but did not set forth that *E. G.* was Servant to *T. S.* and for that Reason it was
Q 4 quash'd;

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quash'd ; for the Justices have only an
Authority to order Payment of Wages to
Servants in Husbandry, but by this Order
it might be for Labour and Work done ;
as a Carpenter or Mason in Building.
3 *Salk.* 261. *Mod. Ca.* 91. *Far.* 50.

Mich. 2 W. III.

The King *versus* Champion.

274. **U**PON a *Certiorari* to remove the
Order of two Justices, and upon
the Return thereof, it appeared to be an
Order to compel C. to pay Wages, recited
to be due to a Day-Labourer, not retain-
ed by the Year according to the Statute
5 *Eliz.* And it was held clearly by the
Court that this Order was void ; because
the Justices of Peace have no Authority
concerning the Wages of Servants, but only
of such who are hired by the Year, ac-
cording to the Statute, and who are hired
in the Service of Husbandry, which not
appearing in this Order, as it ought, it was
therefore quash'd ; for the Statute takes

no

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no Notice of any other Service, and the Justices have no Power concerning Wages, but what is given by the Statute. *Carth.* 156.

Trin. 3 Ann.

The Queen *versus* London.

275. **A**N Order recited, that two Men (by Names) were retained by Mr. *London*, to work in the Gardens in *Hampton-Court* at so much *per diem*; and that they worked so many Days there, for which so much was due, and which Mr. *London* was ordered to pay; this Order being removed from *Hick's Hall* into *B. R.* it was quash'd; because the Justices have no Power by the Statute 5 *Eliz.* to order Payment of Wages to any Labourers, other than those who are employed in Husbandry; and the Reason is, because by Virtue of that Statute, the Justices may compel Men to work in Husbandry; and therefore 'tis reasonable that they should enforce the Payment of their Wages,

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Wages, especially since by the same Statute they have Power to settle the Wages: *Et per Curiam*: Where an Order is made for Payment of Wages generally, it shall be intended Wages in Husbandry; but where it appears to be otherwise, as it did in this Order itself, it shall be quash'd. 3 *Salk.* 261, 262. *Mod. Ca.* 204, 205.

Hill. 10 W. III.

The King *versus* Gregory.

276. **A**N Order was made by the Justices of Peace for the Defendant to pay 40s. for Wages generally; and because it was not said for what Wages, 'twas moved to quash it; for they can only settle Wages in Husbandry. *Sed per Curiam*: We will intend it for such Wages, since the contrary does not appear. 2 *Salk.* 484, 485.

Trin.

Trin. 2 W. & M.

The Mayor and Church-wardens
of Northampton.

277. **T**HE Mayor of *Northampton* committed the Church-wardens for refusing to account before him ; and the Warrant of Commitment concluded in the common Form, *viz.* until they be duly discharged according to Law : And all this appearing upon the Return of an *Habeas Corpus*, the Court held the Commitment void, because the Warrant ought to be thus concluded, *viz.* there to remain until he shall account as the Statute 43 *Eliz. cap. 2.* doth appoint. And the Difference where a Man is committed as a Criminal, and where only for Contumacy, (as in this Case) in refusing to do a Thing required, &c. For in the first Case, the Commitment must be until discharged according to Law, but in the latter until he comply and perform the Thing requir'd ; for in that Case he shall

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shall not lie till a Sessions, but shall be discharged upon Performance of his Duty. Wherefore the Church-wardens were discharged by Rule of Court. *Carth. 153.*

Mich. 8 W. III.

Bracy's Case.

278. **H**E was committed by Commissioners of the Statutes of Bankrupts for refusing to answer; and they concluded their Warrant, *viz.* until he conform himself to our Authority, and be thence delivered by due Course of Law; and upon the Return of an *Habeas Corpus*, he was discharged, because this Conclusion was not pursuant to the Statutes of Bankrupts. *Idem ibidem.*

Trin.

Trin. 3 Ann.

Tracy *versus* Talbot.

279. **H.** Took Part of a House in the Parish of D. on the third Day of December, and was rated as an Inhabitant, and was distrained for a Quarter's Rate the *Christmas* following; but the Distress was taken before *Christmas* on a general Warrant made for the whole Year; and in Replevin upon Evidence it was ruled per Holt Ch. Just. 1st, That if two several Houses are inhabited by several Families, who make and have but one common Avenue or Entrance for both; yet in respect of their Original, both Houses continue ratable severally, for they were at first several Houses; and if one Family goes, one House is vacant: But if one Tenement be divided by a Partition, and inhabited by different Families, *viz.* the Owner in one, and a Stranger in another, these are several Tenements, severally ratable, while they are thus severally inhabited;

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habited ; but if the Stranger and his Family goes away, it becomes one Tenement. *2dly*, That *H.* could not be rated for the whole Quarter ; for Poor's Rates are to be assessed monthly by the Statute ; and by this Means a Man cannot move in the Middle of a Quarter, but he must be twice charged. *3dly*, That *H.* could not be distrained by Virtue of the general Warrant made before the Rate ; but there ought to be a Special Warrant on Purpose. *4thly*, That a Distress could not be taken for a Quarter's Rate before the Quarter was ended ; but the Jury said the Custom was otherwise. 2 *Salk.* 532. 3 *Salk.* 260. *Mod. Ca.* 214.

Mich. 10 W. III.

The Case of the Parish of St. Leonard Shoreditch

280. **T**HE Church-wardens, &c. made a Rate for Relief of the Poor, which was confirmed by two Justices ; and therein nothing was taxed for the Personal Estate,

Estate, but all upon the Real, which was erroneous. Several Inhabitants appealed to the Sessions, and the Rate was there quash'd, and the Church-wardens, &c. ordered to make a new Rate upon both Real and Personal Estates. In the new Rate there was still a great Inequality; the Real Estate being taxed ten Times more in Proportion, than the Personal Estate; for this Reason several Inhabitants appealed again, and this Rate was likewise vacated by Order of the Sessions. And now *Northey* and *Showers* moved to quash these Orders, urging, that the Sessions could only relieve particular Persons over-rated or grieved, but could not set aside whole Rates at once. *Sed per tot. Cur., viz. Holt, Rokeby and Turton.* Surely the Justices at Sessions, upon an Appeal by particular Persons grieved, may, if they see Cause, set aside the Rate; for the Act is, that if any Person or Persons find themselves aggrieved, it shall be lawful for the Justices at the Quarter-Sessions to take such Order therein, as by them shall be thought convenient.

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convenient. 43 *Eliz.* Cap. 2, Sect. 6;
And in neither of these Cases of the first
or second Rate, the Justices could not
have given Relief without setting aside
the whole Rate, because the Rule was
burthensome to a whole Set of Men; and
they may make a new Rate themselves,
or order the Church-wardens and Over-
seers to make a new Rate, as was done in
this Case; they having it in their Discre-
tion to make a new Rate at Sessions, or
remand it to the Church-wardens, &c. to
make one. The Orders were confirmed,
2 *Salk.* 483. And afterwards *int' eosdem*
fol. 524. he says, an Order of Sessions was
made for quashing a Poor's Rate for the
Parish of *Shoreditch*. Exception was
taken, that by the Statute of 43 *Eliz.* the
Justices could not quash the whole Rate,
but were to relieve the Parties grieved.
Sed per Cur': If a Rate be burthensome to
a whole Set of Men, as in this Case it was
to Landholders, the best Way is to quash
the whole Rate; and the Chief Justice
held, that if the Justices quash this, they
I may

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may make a new one themselves, but they are not bound to do it, but may order the antient Inhabitants to do it. 2 *Salk.* 483. *Ho.* 508, 509.

Trin. 1 Ann.

The Parishes of Cumner and Milton.

281. **U**PON a Special Order of Sessions the Case was; *H.* was settled at *Cumner*, and had several Children born there: Afterwards he removed to *Milton*, and gained a Settlement there, by renting a Tenement of the Value of 10*l.* per Ann. he became Poor; and his Children under the Age of seven Years, were sent back to *Cumner* by Order of two Justices; which was confirmed at the Sessions. *Powel J.* held, that when a Child is sent with the Parents by Reason of Nurture, it gains no Settlement; but here the Children did not come to *Milton* by Order. The Children's Settlement shall not be divided from the Father, for that would be unnatural. When a Man gains

R

a Settle-

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a Settlement for himself, his Wife and Servants, he shall gain a Settlement for his Children also; but if a Widow having Children under the Age of seven Years, marries a Man of another Parish, the Children shall go with the Mother for Nurture; but after seven Years of Age, they shall be sent back to the Parish where their Father was settled; for she cannot gain a Settlement for them in this last Parish, being under Coverture; and having a Settlement there herself only as Part of her Husband's Family, from whom she cannot be severed. *Holt Ch. Just.* Birth is a Settlement, and the first Settlement, and there must be another second Settlement by forty Days, &c. to alter the primary Settlement. A Child under the Age of seven Years is accounted a Nurse-Child. If a Child be put out to Nurse, or for Education, though it be above seven Years old, it gains no Settlement thereby, as it was held in *Sir Paul Jenkinson's Case*. The Question here is, whether the first Settlement by Birth be altered? It is hard I confess to remove the Child from the
Father,

Father. *Gould J.* The Child may be removed after the Age of seven Years, but not before ; he is sent with his Father for Nurture only. *Holt Ch. Just.* Suppose the Father and Mother come to *A.* and then go to the Parish of *B.* and within forty Days the Mother be delivered of a Child ; the Child, though legitimate, shall be settled where it was born. The Principal Case is fit to be well considered ; the Father indeed ought to maintain his Children ; but the Question is, whether the Children by living with the Father gain a Settlement ? The Justices cannot remove the Children from the Father till he fall to decay. Afterwards this was moved again. *Et per Holt Ch. Just.* the Question is, when the Father comes with his Children to *Milton*, and gains a Settlement there, whether that does not also give a new Settlement to his Children, and unsettle them as to *Cumner*, the Place of their Birth ? If a Father be settled and die, his Wife being big with Child, and after that the Mother dies before she is delivered, and afterwards the Child is born, the Child is set-

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tled there by his Birth. In this Case the Settlement of the Father at *Milton*, is a Settlement to the Children. The Child is settled by Birth only, where 'tis an accidental Settlement. The Order was quashed. 2 *Salk.* 528, 529. 3 *Salk.* 259.

Mich. 2 Ann.

Cumner and Milton iterum.

282. **A** Child was born at *Cumner*; the Father, while the Child was under seven Years of Age, removes to, and gains a Settlement in *Milton*; and this was held a Settlement for the Child. And it was said by the Court, that if a Father be settled in a Parish and dies, and after his Wife dies in Child-bed, he (and the Child) shall be there settled. *Mod. Ca.* 87.

Hill.

Hill. 8 W. III.

Jervis's Case.

283. **T**WO Justices order her to be removed to *Weston in Com' Somerset*, being the Place of her last Settlement, as they are credibly informed; but upon an Appeal upon hearing both Sides the Order was confirmed; which *per Holt* supplies that Defect, and credibly informed may be that Way which the Law appoints (to wit) by Examination of Witnesses; but at another Day he said, they might be informed so at an Alehouse, and therefore he held the Order ill; but by Consent it was referred to the Judge of Assize upon the Merits. *Comb.* 413.

Mich. 8 W. III.

Trobridge and Weston Parishes.

284. **I**T was moved to quash an Order of two Justices, which recited: Whereas *B.* is, as we are credibly informed, the Place of his last legal Settlement, not averring that it was the Place of his last legal Settlement, as it ought; for that the Statute says, the poor Person shall be removed to the Place where he was last legally settled; and it was quashed.

Note; It was held, *Mich. 3 Ann.* in the King's Bench, that legal Settlement, and last legal Settlement are the same Thing; because by every new Settlement the Precedent is discharged. 2 *Salk.* 473.

Pasch.

Pasch. 4 W. & M.

The King *and* The Inhabitants of
Colliton.

285. UPON a *Certiorari* to remove an Order, it appeared to be thus :
§. Two Justices of Peace, &c. reciting, that upon hearing the Parishioners of *Honiton*, *Axmister*, and *Colliton*, concerning the last Settlement of one *Hurley*, (then residing in *Honiton*) it appeared to them, that the said *Hurley* was last legally settled at *Axmister* ; therefore they order him to be removed thither ; from which Order *Axmister* appealed to the Quarter-Sessions, where the Order was repealed ; and the Sessions farther ordered, that the said *Hurley* should be removed to *Colliton* as being legally settled there ; but their Order did not recite, that *Colliton* was heard upon the Appeal.

And now it was moved to quash the last Part of this Order of Sessions ; first because it was an original Order as to *Colliton*,

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liton, and so they are deprived of an Appeal which is given by the Statute; and the Sessions ought only to have vacated the first Order, and not to have any Order on *Colliton* : For by this Means *Colliton* is charged without any Remedy, notwithstanding they could make it appear that *Hurley* had a later Settlement in any other Parish whatsoever, for that this Order of Sessions is positive upon them.

Sed non allocatur ; because it appears, that *Colliton* was a Party to the first Order made by the two Justices, and so by Consequence to the Appeal ; wherefore the Sessions might well settle him upon them, because by the Appeal *Colliton* was before the Sessions. *Secus*, if *Colliton* had not been a Party to the original Order, but mere Strangers ; for then the Sessions could not charge them as not being before the Court.

2. The next Exception was, that it did not appear by either of the Orders, that *Hurley* was likely to be chargeable to the Parish,

Sed

Sed non allocatur ; for this is an Order of Sessions, grounded on a Complaint concerning a Settlement by another Order, and thereby it shall be intended, that *Hurley* was likely to be chargeable, because of the Controversy between the Parishes; but 'tis otherwise in an original Order, for there it must appear, that the Party was likely to be chargeable ; but here the original Order was vacated, therefore it cannot concern *Colliton*.

3. The next Exception was, that there was no Caption of this Order returned ; for that here was only the Stile of the Sessions on the Top ; but it was not said, that *Ordinatum fuit prout sequitur*, &c. but the Order was distinct without Relation to the Stile.

Sed non allocatur ; but held to be well enough.

4. The fourth Exception was, that the Stile was *ad generalem Sessionem*, &c. but did not say *Quarterialem*, and the Statute is express, directing the Appeal before the Justices at their Quarter-Sessions ; and this
being

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being a new Law, and a new Jurisdiction, ought to be literally pursued.

And *Holt* Ch. Just. was of that Opinion, and two Justices *contra*; therefore it was adjourned to search for Precedents; and upon Search, they were found to be both Ways, and almost equally in Number. *Carth.* 221, 222.

The King *and* The Inhabitants of
Hartfield.

286. Two Justices of Peace made an Order to remove *Nicholas Wells* from the Parish of *Hartfield* to the Parish of *Framfield*, from which Order *Wells* tho' Party himself, and not the Parish, appealed; and thereupon the Sessions made an Order to return him to the Parish of *Hartfield*, from whence he was removed; but they did not by any express Words vacate the first Order.

It was now objected, that the Party himself cannot appeal, because the Appeal is given only to the Parish aggrieved, and not to the Party removed.

Sed

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Sed non allocatur ; for *per totam Curiam* the Party may appeal as well as the Parish.

2. The next Exception was, that this is an original Order of Sessions ; and besides, it doth not vacate the first Order, for the Sessions is only to vacate or affirm the first Order, and not to make a new Order.

And *Holt* Ch. Just. was of that Opinion, but two Judges against him ; for that the Sessions Order doth vacate the Order of the two Justices by Implication, because it orders the contrary, and that is sufficient in this Case ; and upon their Opinion the Order was confirm'd. *Idem ibidem.*

Pasch. 8 W. III.

*Duke of Banbury and Broughton
Parish.*

287. *HOLT* Ch. Just. Where a Child is brought from the Parish of *A.* to the Parish of *B.* without legal Authority, they of *B.* may by Warrant of two Justices, return the Child to *A.* tho' not the Place of last Settlement, because they have

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have done the Wrong ; where the Child is
first known to be, that Parish must provide
for it till they find another. *Comb.* 364.

288. Where an Appeal lieth to the next
Quarter-Sessions. If the Appeal be then
received and lodged, 'tis sufficient, and the
Justices may proceed upon it at the next
Sessions. *Idem* 365.

Trin. Sequen'.

The King *and* The Inhabitants of
Banbury.

289. **A** Constable without a Warrant
brought a Child from *Broughton* to *Banbury* ; and two Justices of *Banbury* make an Order, reciting the Fact, to
return the Child to *Broughton*, there to be
provided for according to Law.

The Court held the Order good for re-
turning the Child to the Wrong-Doers, and
therefore that Part was affirmed ; but it
ought not to be said to be there provided
for, &c. but they are to be left to take
their

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their Course according to Law ; therefore that Part was quashed. *Idem* 372.

Idem and The Inhabitants of Luckington.

290. *Howel* and his Wife were settled at *Luckington*, and came clandestinely into the Parish of *St. Austin's* (in *Bristol* come *semble*) and there a Child was born ; the Father dieth in the King's Service ; the Question was, who shall keep the Child.

Northey : It is settled where born, they cannot send it to the Father when he is dead : *Luckington* hath no Right to this Child, but as a Consequence of the Father's Settlement ; which fails when he is dead.

Holt Ch. Just. The Death of the Father doth not alter the Child's Settlement ; must a Posthumous Child become a Vagrant ? Birth gives no Settlement ; (as if a Child were born in the House of Correction) indeed 'tis a Settlement for a Bastard Child, because he is *nullius Filius* . The Mother must be settled where the Father was last settled ; so for the Child.

Northey :

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Northey : A Child cannot be removed from the Place of his Birth, unless to his Parent.

Holt hesitavit : The Case is considerable, the Child may be sent to the Mother; but *Quare* who shall maintain it.

Broderick cited a Case between the Parish of *Heston* and *St. Andrew's Holbourn*, for the Child of Mr. *Dockwray* being born in *Holborn*; it was ruled the Child should continue there, tho' the Father had been last settled at *Heston*.

Holt : 'Tis difficult in this Case of a legitimate Child. Suppose a Man is legally settled, and hath a Child, and afterwards some Estate descends to him in another Parish, whither he removes (as he cannot be hindred) where shall this Child be settled, which Parish shall contribute; shall the Descent of a Rood of Land charge a Parish with Ten Children? I think they shall follow the Parent for Nurture and Education, but the Parish where they were born shall contribute to their Relief.

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We will advise upon the principal Case,
and I will hear it when I come to *Bristol*
upon the Circuit. *Comb.* 380, 381.

Pasch. 8 Ann.

Anonymus.

291. **H**ospital Lands are chargeable to
the Poor as well as others; for
no Man by appropriating his Lands to an
Hospital, can discharge or exempt them
from Taxes to which they were subject be-
fore, and thereby throw a greater Burden
upon their Neighbours. *Per Holt Ch. Just.*
2 *Salk.* 527.

Pasch. 8 W. III.

The King *versus* Brown.

292. **T**H E Justices make an Order,
That the Defendant should pay
s. 7. a Taylor, 7 l. for Work done, which
the Defendant refusing to do, was indict-
ed; but it was quash'd, for it is a Mat-
ter not indictable. 3 *Salk.* 189.

Scrivenham

256 *Cases and Resolutions adjudged*

Scrivenham Parish versus St. Nicholas.

293. An Order to remove a poor Person, was quashed, because it was not said, That he was poor, or likely to become chargeable to the Parish. 3 *Salk.* 255.

Pasch. 9 W. III

Iney versus Pastow.

294. **A**N Order made by two Justices, for settling a poor Man at such a Place, was quashed at the Sessions; but because it did not appear, that it came before them by Way of Appeal, the Order of Sessions was quash'd, for they have not original Jurisdiction, but it must be brought before them by Appeal. *Idem* 257. 2 *Salk.* 479. *Anonymus.*

Hill.

Hill. 10 W. III.

Bayly's Case.

295. **A** Maid Servant, before the 25th of *March* 1707, was an Inhabitant legally settled at *Overton* in *Hampshire*, and then contracted with one *John Orpewood* at *Steventon*, for so much Wages, to serve him from the said 25th of *March* till *Michaelmas*, which she did accordingly, and then made a new Contract, to serve him for a longer Time, and accordingly did serve him upon that Contract, till *April* following, in all above a Year. *Et per Curiam*, Tho' this was not an entire Contract for a Year, yet it gained her a Settlement at *Steventon*, according to the Statute 9 W. 3. *Idem ibid.* 258.

Hill.

Hill. 8 W. III.

Spencer's Case.

296. **A**N Order was made by two Justices, to remove *Spencer* from *Hinckley* in *Leicestershire* to *Rothby* in *Warwickshire*, who appealed; and at the adjourned Sessions, the two Parishes agreed to put off the Determination of the Cause till the next Sessions, which Sessions vacated the Order of the two Justices; and now it was moved, to set aside that Order, because the Appeal ought to be at the next Sessions. *Per Statute 13 Car. 2. and 3 & 4 W. 3.* there to be finally determined; and for this Reason it was quashed. 3 *Salk. ibid.*

Mich. 10 W. III.

Anonymus.

297. **A**N Order made to remove a poor Man and his Family from *H.* to *C.* was quashed, because all might not be remove-

in the Court of King's Bench. 259

removeable; for if a Widow have Children in a Parish where she is settled, and married a Husband settled in another Parish, if those Children are above seven Years old, they are not to be removed.

3 *Salk.* 260.

Pasch. 9 W. III.

The Inhabitants of Berry and Arundel.

298. **W**Hereas Complaint hath been made to us, that *Jacob Duckin*, with his Wife and Children, came from his Place of Abode and last legal Settlement in *Berry* to *Arundel*: We therefore require you, &c. Naught, for there is no Adjudication of the Justices, which was his last legal Settlement, but only a Complaint, that *Berry* was, which doth not appear, whether true or false.

2 *Salk.* 479.

Pasch. 7 W. III.

Dumbleton and Beckford.

299. **O**N a *Certiorari*, was returned an Order of Sessions in *Glocestershire*, a Girl of near thirteen Years old, had been at *Dumbleton*, and always lived there with her Grandmother ; her Father was legally settled at *Beckford* in the said County, she wanting Relief, was by the Order charged on *B.* because her Father was settled there : *Et per Curiam*, The Order must be quashed ; for though till eight Years Children are counted nurse Children, yet they must afterwards have Maintenance from the Parishes where they themselves are settled ; and for any Thing appears she may have gained a Settlement. 2 *Salk.* 470.

Trin.

Trin. 9 W. III.

Ashley's Case.

300. **T**WO Orders were removed by *Certiorari*, but the Return was quashed; because the Return in the Schedule annexed of the Writ was not made by two Justices, but by the Clerk of the Peace, who was not the Person to whom the *Certiorari* was directed, and thereupon a new *Certiorari* was granted. 2 *Salk.* 479.
3 *Salk.* 258.

Mich. 1 Ann.

Newson and Bawldry.

301. **D**Eclaration in Prohibition for Libelling in the Spiritual Court, for the Payment of a Parish-Rate, made at an Assembly of twenty Parishioners, fifteen whereof were against the Rate, and five only for it; and that the Money was expended in repairing the Chancel,

and railing it, and raising the Floor some Steps higher : To which it was pleaded, That the Communion-Table was, *ab antiquo*, placed in the Chancel, and that there were antient Rails about it, which were out of Repair ; that at a Meeting of a Majority of the Parishioners, the Rate was made to replace the Communion-Table in the Chancel, and to repair the said Rails ; the Plea also contained some other Things which were thought decent to be done at that Assembly ; but the Matter being ill pleaded, they were directed to amend their Plea ; in order to bring the following Points in Judgment :

1. Whether, if the Communion-Table were not in the Chancel before, or if there were no Steps up to it, and the Parishioners, on a Meeting, do not find that so decent, the Majority of them can make a Rate to oblige all for altering the Place of the Communion-Table, or carrying it into the Chancel, or for raising it higher? And the Court inclined they could ; for as to the Degrees of Order and Decency, there is no Rule, but as the Parishioners

agree

agree among themselves; and though they are compellable to put Things in decent Order, yet there is no Rule for the Degrees of Decency, but the Judgment of the Majority.

2. Whether a Majority of Parishioners may make a Rate to bind the Rest for Repairing or Adorning the Chancel: For that is the special Freehold of the Parson. *Cheshire* here quoted the Case of *Rose and Hawkins*, 9 *W.* 3. in this Court; where a Libel was for a Parish-Rate, to repair a Church and Chancel, and a Prohibition granted for two Reasons; one because the Chancel ought to be repaired by the Parson; the other, for that it was suggested, the Rate was not made by a Majority; yet because they had not gone to try that Point below, the Court said it was no Cause. *Far.* 69, 70.

Hill. 1 Ann.

302. **P**Age came to the Bar, to shew Cause against a Prohibition to a Suit in the Ecclesiastical Court of *Ely.* for a Church-Rate for Repairing of the Church and Church-Ornaments. The Suit did set forth, the Church was out of Repair, &c. and that at a Meeting of the Parishioners, a Rate was made by a Majority of them, that the Plaintiff for Prohibition was an Inhabitant, and rated so much. The Suggestion was, That *J. S.* is seised in Fee of the Manor of *Dale* within the Parish; that he, and all those whose Estate he has in it, Time out of Mind, used to repair an Isle in the Parish-Church, and in Consideration thereof, were discharged of all Rates for Repairing the whole Church, and that the Defendant is Tenant of Part of the Manor.

1. Exception, That the Libel is for Repair of Church and Church-Ornaments,
and

and the Prescription goes only to the Repair of the Church.

2. The Tendering of such a Plea below, and Refusal of it, is no Cause of Prohibition, but rather of Appeal. *Vide 1 Bulst. 16.*

3. The Prescription is, That all the Tenants of the Manor were discharged, and he makes himself Tenant of Part.

Holt : 'Though a Man, Time out of Mind, repair a Chapel, yet if it be not a Predial Chapel, having Chapel-wardens belonging to it, yet it is not Reason to exempt from a Church-Rate to repair; and here, if he repairs less than his Proportion amounts to, it may be a Question, if it ought to discharge him? But if he repairs more, or as much, it will be good: But this is not Matter to be determin'd upon Motion. As to the first Exception, if you have not distinguish'd how much is demanded for Ornament, you have not libelled right; and Prohibition, if it goes

I at

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at all, must go for all. As to the third Exception, If the Tenant of the whole Manor has such an Exemption, Tenant in Part shall have it in Proportion. And Rule absolute, and declare forthwith; for in Prohibition, we may order the Declaration to be delivered as we please in Point of Time. *Far. 121, 122.*

Wilmere's Case.

303. Church-wardens libel in the Spiritual Court for Rates for Ornaments.

Plea, That he was not a Parishioner at the Time the Rates were made, nor since; yet proceed in the Spiritual Court, and prays a Prohibition.

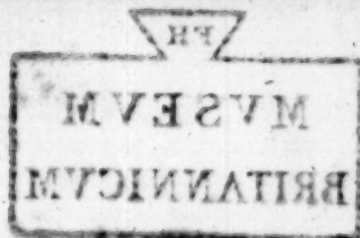
Per. Houghton and Chamberlain: That it is no good Plea, if the Tax was for Reparation; but for Ornaments it is. *2 Roll.*

267.

The

The King *versus* Randall.

304. By a *Certiorari*, two Orders were removed from the Sessions of *Middlesex*; the first whereof recited, That whereas *R. Randall* had lately taken a House at *Hoxton*, designing to sell Ale and Beer there; and whereas the House had never been inhabited but by Merchants and Men of Quality, and there were Alehouses enough in *Hoxton* already, therefore it is ordered that no Licence be granted to any House in *Hoxton*, wherein Ale was not formerly sold, and that no Licence should be granted to *Randall*: The second Order recited, That whereas a Licence was surreptitiously gotten by *Randall* from two Justices of Peace, that yet his House should be suppressed from drawing of Ale: And it was moved to quash these two Orders, because by 5 & 6 Ed. 6. c. 25. the Quarter-Sessions cannot controul two Justices of Peace in this Affair. *Per Holt Ch. Just.* This Difference has been taken: If Authority



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thority be given to two Justices of Peace to do an Act, and from that Act there is no Appeal, then it may commence at the Sessions ; but if an Appeal be given, then they cannot begin at the Sessions, as 43 *Eliz.* and 18 *Eliz.* till 3 *Car. 2.* But the true Objection here is, That except for Disorder, the Justices of Peace cannot, at their Sessions, suppress an Alehouse licensed by two Justices of Peace ; and the Order was quashed. 2 *Salk.* 470, 471.

Pasch. 8 W. III.

Oswell and Woking.

305. **A**N Order was made upon Appeal setting forth, That by the Order of two Justices, upon a Controversy before them, between the Parishes of *Woking* and *Oswell*; a poor Person was removed to *Oswell* ; and that upon Complaint of the Church-wardens of *Oswell*, the Sessions ordered their Order to be superseded, and that the Person should be removed to *Woking* aforesaid ; and it was objected,

That



That the Act of Parliament only gives the Sessions Power to affirm, or quash, but not to supersede an Order, or to suspend it for a Time ; and that the Case before them being for the Parish of *Woking*, an Order was made by them for another Parish not concerned, *viz.* the Parish of *Waking*, must be void, and that the Word aforesaid would not help it, because *Oswell* was the Parish last mentioned. *Per Cur'*, Superseding is not a proper Word, for there is a Difference between a *Supersedeas* and a Repeal : A Commission of *Oyer and Terminer* that is superseded, may be revived by a *Procedendo*, without granting a new Commission ; but that cannot be in the Case of a Repeal, though this Word is commonly used by Justices upon such Occasions ; and then there is a plain Difference between *Waking* and *Woking*, for by what appears, they may be two distinct Parishes : But no Judgment was given, for the Cause was referred to a Judge of Assize, 2 *Salk.* 472.

Mich;

Mich. 8 W. III.

The Case of the Parish of Amner.

306. **T**HE Case was, at the Complaint of the Church-wardens of *Terrent-Reinston* in *Dorsetshire*, to Sir *John Morton* and *John Gould*, two Justices of the Peace of the said County, concerning a poor Man and his Wife; they the said Justices adjudged him to be last legally settled at *Tirrin-Crawford*, upon which they appealed; and there it was ordered, That it appearing to the Sessions, that he was last settled at *Amner*, therefore they discharge *Tirrin-Crawford*, and order the poor Man to be removed to *Amner*: This was quashed upon the Motion of Mr. Serj. *Gould*, because this was to make an original Order, which the Justices at Sessions have no Power to do; they might have reversed the first Order, and ordered the Party to be carried back to *Terrent-Reinston*, but they could not remove

move the Party to *Amner*, a third Parish, who was no Ways concerned in the Order or Appeal; and if they are really chargeable with it, it must be at the Complaint of *Terrent-Reinston*, to two Justices of the Peace. 2 *Salk.* 475.

HILL. 8 W. III.

The King *versus* Harding.

307. **A** *Certiorari* was directed to the Lord Mayor and Justices of Peace of *London*, to remove an Order; before filing whereof a *Procedendo* was prayed: The Fact was, the Servant of one *Harding* complained to the Sessions, that her Master was in Arrear to her for Wages: On hearing the Matter, both Parties agreed to refer it to Sir *Thomas Lane*, late Lord Mayor, to be determin'd; which was done accordingly, by Order of Sessions: He made an Award, or Order, but before Report made thereof, this *Certiorari* was now brought, whereon a *Procedendo* was now prayed. *Et per Cur.*

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A Judge of *Nisi Prius*, by Consent of Parties, may make a Rule to refer a Cause, but the Sessions cannot do so, tho' by Consent: They may refer a Thing to another to examine, and make Report to them for their Determination, but cannot refer a Thing to be determined by the other: And therefore the *Certiorari* was filed, and no *Procedendo* granted. 2 *Salk.*

477.

Mich. 8 W. III.

Anonymus.

398. **A**N Order was made by two Justices to remove a poor Person, and Exception was taken, That it did not appear by the Order, that the Justices were of the Division, or that either of them was of the *Quorum*: The last was held a good Exception, but the first overruled, for in that the Statute is only directory. 2 *Salk.* 473.

The

The Parishes of Chittinston and Penhurst.

309. An Order for removing of a poor Person was quashed, because it was not said, that one of the Justices was of the *Quorum*: Holt Ch. Just. said, This had been doubted, and perhaps adjudged otherwise before; but that he was of a different Opinion; for this being a special Authority, it must appear to be pursued.

2 Salk. 473, 474. Ho. 507.

Inter easdem.

310. An Order was made to remove a poor Person from *Chittinston* to *Penhurst*; and this was quashed, because it was not said, that one of the Justices was of the *Quorum*: Holt Ch. Just. said, That some indeed had been of Opinion, that an Order was good, notwithstanding this Omision, and perhaps it has been so adjudged;

T

but

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but he was of Opinion, That this being a special Authority to Justices out of Sessions, it ought to appear that that Authority was exactly pursued. 2 *Salk.* 475. See after 319.

The King *versus* Dobbyn.

311. An Order of two Justices was quashed, because it did not appear they were Justices of the County, or for the County, but only residing in the County. *Idem* 474.

Hill. 8 W. III.

Hatton's *Case*.

312. **A**N Order was made by five Justices to maintain a Bastard-Child; and it was objected by *Broderick*, That the Complaint is not said to be by any Parish, or Officers there, but only of a Town, which may include several Parishes; but the Court held that well enough. 2^{dly}, That the Order is under the Hands

in the Court of King's Bench. 275

Hands of five Justices, whereas it should be only the two next; but the Court held that well, for the Statute is not restrictive to two, but there must be two at least. 3dly, That it does not appear that either of those was a Justice of *Quorum*; upon this it was quashed, but the Party was bound to appear at the next Sessions. *Idem* 477.

The King *versus* Matthews.

313. Mr. *Montague* moved to quash an Order for maintaining a Bastard Child: 1st, Because 'twas not said the Child was likely to become chargeable: And 2dly, the Defendant was ordered to pay 18 *d.* per Week indefinitely, without limiting any certain Time. *Shower* answered; That no Order relating to a Bastard Child can be quashed, except the reputed Father be present in Court; *quod curia concessit*; however this being a hard Case, a Rule was made to shew Cause; and being stirred again the next Term, the Court would not quash it till the reputed

T 2

Father

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Father came into Court ; and the first Exception was over-ruled ; for 'tis Self-evident, that every Bastard Child is likely to become chargeable. *Idem* 475, 476.

Mich. 8 W. III.

The Inhabitants of Much-Waltham and Peram in Essex.

314. **M**R. *Comyns* moved to quash an Order of Sessions for the Settlement of a Bastard Child of *E. L.* she being big with Child, a little before her Delivery was removed by the Order of two Justices of Peace, from *Much-Waltham* to *Peram* ; before the next Sessions she was delivered at *Peram* of a Bastard Child. At the Sessions *Peram* appealed, and the Justices adjudged the Woman to be last legally settled at *Much-Waltham*, and ordered her to be sent back thither ; after which an Order was made for settling the Child at *Peram*, which *Comyns* moved to quash ; because, tho' regularly Bastards

Bastards must be maintained where born; yet in this Case, where there seems to be a Contrivance, it shall not be so, as in *Tuming's Case*, 2 *Bulst.* 349. Whenever an Order is reversed, all Things happening subsequent thereunto, shall be avoided thereby. The Child being born pending the Order, shall be esteemed in Law to be born in that Parish, whereunto the Mother on the Appeal is returned back; the Court seemed to agree to this, and a Rule was made to shew Cause, but none was shewed. *Idem* 474.

Hill. II W. III.

Bedingham and Kingston-Bowsey
Parishes.

315. **A** Poor Man, by the Order of two Justices, was removed from the Parish of *St. M.* to the Parish of *Kingston-Bowsey*, as the Place of his legal Settlement; from which Order *Kingston* appealed to the next Quarter-Sessions; where this Order was discharged.

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Afterwards this poor Man went to *Bedingham*, from whence by another original Order of two Justices, he was again removed to *Kingston-Bowsey*; which last Order being removed by *Certiorari* into *B. R.* it was now moved that it might be quashed; because upon the Appeal *Kingston* had been discharged; which could not be, if that had been the last Place of his lawful Settlement; therefore it was insisted that *Kingston* was finally acquitted.

Sed per Curiam: The Order made upon the Appeal is final to none but to the contending Parishes, who were Parties to the Appeal, and not to Strangers, as *Bedingham* is in this Case. *Carth. 516.*
Sed quare, vide infra.

Trin.

Trin. 5 Geo. II.

Cafe and Stephens.

316. **I**N Covenant : The Plaintiff declares that the Defendant being seized of the Lands of *D.* did by Indenture in the Year 1661. demise the said Lands unto the Plaintiff, reserving the yearly Rent of 10 *l.* and that the Defendant did covenant with the Plaintiff, that he should quietly enjoy the Land so demised to him, and to indemnify the Plaintiff against all Duties, Charges and Taxes whatsoever, to be imposed upon the said Lands, except Tithes : That the Plaintiff did enter by Force of the said Lease, and was possess'd of the said Lands ; and being so possess'd, the Church-wardens and Overseers of the Parish where the Lands lie, and of which the Defendant is an Inhabitant, did make a Poor's Rate for the said Parish, by Force of the Statute 43 *Eliz. cap. 2.* in that Case provided ; and that the Defendant, by Reason of the said Lands, which

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Sed per Curiam: The Order made upon the Appeal is final to none but to the contending Parishes, who were Parties to the Appeal, and not to Strangers, as *Bedingham* is in this Case. *Carth. 516. Sed quare, vide infra.*

Trin.

Trin. 5 Geo. II.

Cafe and Stephens.

316. **I**N Covenant : The Plaintiff declares that the Defendant being seized of the Lands of *D.* did by Indenture in the Year 1661. demise the said Lands unto the Plaintiff, reserving the yearly Rent of 10 *l.* and that the Defendant did covenant with the Plaintiff, that he should quietly enjoy the Land so demised to him, and to indemnify the Plaintiff against all Duties, Charges and Taxes whatsoever, to be imposed upon the said Lands, except Tithes : That the Plaintiff did enter by Force of the said Lease, and was possess'd of the said Lands ; and being so possess'd, the Church-wardens and Overseers of the Parish where the Lands lie, and of which the Defendant is an Inhabitant, did make a Poor's Rate for the said Parish, by Force of the Statute 43 *Eliz. cap. 2.* in that Case provided ; and that the Defendant, by Reason of the said Lands, which

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he so held within the said Parish, was charged with such a Sum of the said Rate, which he paid to the Overseers of the Poor of the said Parish ; and assigns a Breach, in that the Defendant did not indemnify him against the said Poor's Rate &c. To this the Defendant demurs generally ; and

Serjeant *Darnell* for the Defendant insisted upon two Things : 1. That in the Assignment of the Breach, it is not shewn that the Defendant had Notice that the Tax was assessed ; and he being a Stranger, could not indemnify against that of which by Intendment he had not Notice. He could not take Notice how much the Plaintiff's Share of the Rate amounted to, and therefore the Plaintiff being privy to the Transaction, should have given the Defendant Notice, and demanded Payment.

2. The Poor's Rate is not within the Covenant ; as to that the Words of the Statute are, to raise by Taxation of every Inhabitant, Parson, Vicar, and other, and of every Occupier of Lands, Houses,

Houses, &c. such competent Sums of Money, &c. & *Sett.* 14. And that it shall be lawful to levy the said Sums of every one that shall refuse to contribute, according as they shall be assessed, by Distress and Sale of the Offender's Goods; and in Defect of such Distress, it shall be lawful to commit him or them to Gaol, there to remain till Payment: By which it appears this is a personal Charge upon the Inhabitants, to be assessed according to the Substance, and Ability of every One. And therefore, suppose the personal Estate of a Lessee very considerable, his Proportion of the Rate may exceed the Rent reserved on his Lease. Now within the Covenant it must be such a Charge, to the Levying of which the Land is made subject.

Serjeant *Eyre* for the Plaintiff: As to the Objection for want of Notice, the Defendant is to indemnify the Plaintiff at his Peril; and where the Thing to be done relates to the Act of a Stranger, both Parties are to take Notice, 1 *Bulst.* 44. as to the principal Matter; the

Poor

Poor Rate is a Charge on the Land; for a Foreigner having Lands within the Parish, shall be taxed; and that it is a Tax upon the Land, he cited *Carth. 14. Hull's Case, 439. Cumberb. 62, 264.* The Words of the Covenant are; All Duties, Charges, and Taxes whatsoever, which are very comprehensive, and shew that the Intention of the Parties was to covenant against this Tax; which is proved likewise by the Time when the Lease was made, *viz. 1661.* for then Land-Taxes were so rare and inconsiderable, that it must be understood, the Lessee was more concerned to be indemnified against the Poor-Rate. To the Objection, that the Tax might prove greater than the Rent, it will be an Answer; that the Allowance on the Part of the Lessor must be proportion'd to the Rent. By the Exception of Tithes it appears, the Defendant was to indemnify against every Thing else.

Eyre Ch. Just. The Exception of Tithes in the Covenant will not influence the Construction of it; for the Tithes are a Duty payable out of the Land, and therefore

fore that Exception was necessary in Opposition to the Word Duties. The Question then is, whether a Poor-Rate be, within the Covenant, a Tax upon the Premises, which I think it cannot. The Poor and Church Rate are Taxes payable in respect of the Land; but they are not payable out of the Land, for the personal Estate only is subject to them; whereas the Land-Tax does immediately charge and affect the Land, and therefore is properly called an Imposition upon the Land.

Price Just. This is not a Charge within the Covenant; for the Statute makes it personal, by subjecting the Goods to Distress and Sale, and the Body to Execution: The Cases cited prove it a Charge in respect of the Land, not on the Land, and that it is so, is evident from this; that if a Lease be made, and then the Lessor quits the Parish, the Lessee, not the Lessor, pays the Tax, which goes with the Possession and Occupation, not with the Inheritance, and to this agreed Mr. Justice Denton, and Mr. Justice Fortescue; but Fortescue held, that the Defendant should
have

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have had Notice of the Tax, and the Payment thereof by the Plaintiff. *Denton* said, he had conceived some Doubt on this Head, and therefore being clear in the other Matter, would deliver no Opinion in this. The Chief Justice, and Mr. Just. *Price*, held the Averment of Notice not necessary: But the Court being unanimous in the other Matter, gave Judgment for the Defendant. *Fitz-G.* 297, 298, 299.

Pasch. 6 G. 2.

The King against Inhabitants of Utoxeter.

317. **T**HE Court after great Deliberation, resolved, That a *Certiorari* did not lie to remove a Poor's Rate; that if the Rate be not a legal Rate, or if it be unequal, the Party agrieved may there appeal to the Sessions for his Remedy upon the Distress, and so it was determin'd 10 *Ann.* in the Case of *St. Mary's in Marlborough*, a Rule was made to return the
Poor's

in the Court of King's Bench. 285

Poor's Rate, but was afterwards quashed.
Report of *Select Cases in Chancery*, the
King's Bench, &c. 117.

Hill. 8 W. 3.

318. **T**HE Sessions cannot indict for
Petit Treason. Ho. 642.

Mich. 8 W. 3.

Green and Pope.

319. **B**Rewer excepted against an Order
of two Justices to remove a poor
Person. 1. That it is not said in the Or-
der, that the Man did not rent Ten Pounds,
per Ann. 2. That it doth not appear that
one of the two Justices was of the *Quo-*
rum.

Holt Ch. Just. said the first Exception
had been solemnly over-ruled, but for the
second Objection the Order was reversed;
and then the Order of Sessions falls to the
Ground.

And the next Day in *Pool's Case*, Ho.
C. J. Said the Order should begin, *Whereas*
Complaint

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Complaint hath been made unto us, two Justices, *Quorum unus*, by, &c. *Ho.* 507. See Case 26 & 213.

Mich. 12 W. 3.

The King against The Inhabitants of Long Critchell.

320. **A** Man was removed from the Parish of *All-hallows* to the Parish of *Long Critchell*; he goes from *Long Critchell* to *P.* they got several Orders from two Justices, by Way of Execution of the first Order, to remove him from *P.* to *L.* but all of them were quashed, because *P.* ought to have made an original Complaint, and upon that have got an Order, and not have grafted on the Order of Removal from *A.* to *L.* tho' they might have used that as Evidence. The Orders were quash'd upon this Reason. *Ho.* 510.

Trin. 12 W. III.

**The Inhabitants of Chalbury against
Chipping Farringdon.**

321. **H.** Was removed by Order of two Justices, from the Parish of *A.* in *Warwickshire* to *Chalbury* in *Oxfordshire*; from thence by Order of two Justices to *Chipping Farringdon* in *Berkshire*. It was objected, that *Chalbury* ought to have appealed, to have the Order upon them discharged, which *Holt* Chief Justice agreed, for sending the poor Man to another Place is Falsifying the first Order, which cannot be done but by Appeal. *Ho.* 509,

510.

Mich. 7 W. 3.

Lewfly against Budd.

322. **HOLT** Ch. Just. This Case stands for the Resolution of the Court; it is on two Orders grounded on the 2^d W.

G. M.

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& M. for Scavengers Rates for cleansing the Street of *Newington*. One of the Orders saith, That all Inhabitants shall contribute to it ; the other, That those who live on the Pavement shall contribute ; the Question is, which is good ?

We are of Opinion, that all the Inhabitants shall contribute, for tho' it may be thought hard that they shall pay any thing towards the Pavement that do not live on it, yet the Words of the Statute are so strong, that it lays the Charge on all the Inhabitants without Distinction ; and where the Statute doth not distinguish we have no Power to do it. Now in *Newington* there is a Street that is paved, and a great Part of the Town that is not, and there are several of the Parish who live out of the Town, and yet they are bound all to contribute ; then the Penalty of the Scavenger is given to the Overseers generally : How this would be on the 13 & 14 C. 2. we can't tell, but on this Statute all the Inhabitants ought to contribute towards the Cleansing of the Pavement ; and therefore one of the Orders is good, and the other

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other is bad, and ought to be quashed.

Ho. 506, 507.

Trin. 13 *W.* III.

The King against Johnson.

323. **E**Xception was taken to an Order for discharging an Apprentice.

1. That the Complaint was made originally at Sessions, without previous Application to a Justice out of Sessions. 2. That the Justices had ordered Money to be returned.

Ho. C. J. delivered the Resolution of the Court, that the Order was good: If it had been a new Question, he should have held a prior Application necessary, but after so many Orders affirmed in this Court which have been otherwise, 'tis too late to unsettle that now: As to the 2d Point, he never doubted that, it is a Power consequential upon their Jurisdiction to discharge. *Ho.* 511. See Case 177.

U

Hill.

Hill. 11 W. III.

Dillon's Case.

324. **HOLT** Ch. Just. & Cur. adjudged that Justices of Peace may discharge an Apprentice, and also order a Restitution of Money given with the Apprentice within the Equity of the Statute of 5 *Eliz.* and that if the Master being bound to answer at the Sessions of the Justices, do not appear, it is a Forfeiture of his Recognizance ; but the Justices may at the same Time proceed to make an Order against the Master. *Ho. 68. See before.*

Mich. 10 W. 3.

Peck's Case.

325. **T**HE Master took an Apprentice in Husbandry, according to the 5 *Eliz.* and died before the Time of the Apprenticeship expired, leaving the Apprentice

prentice impotent and a Cripple; and the Justices of Peace at their Sessions ordered the Executor of the Master to keep the Apprentice; but the Order of the Justices was quashed in the *King's Bench*, because it did not appear that the Executor had Assets, or that he lived in the same County.

Ho. Ch. Just. Said, That by the Custom of *London* in these Cases, the Executor shall put the Apprentice to another Master of the same Trade; and in other Places it would be heard to construe the Death of the Master to be a Discharge of the Covenants; that it had been held, the Covenant for Instruction failed, but that he still continues an Apprentice with the Executor *quoad* Maintenance.

The Executor is liable in Covenant if he doth not instruct the Apprentice, or find him another Master. *Ho. 67, 68.*

Mich. 1720.

Attorney General *versus* Grant,
Rector of St. Dunstan's.

326. **A**N Information was brought in the Name of the *Attorney General*, at the Relation of the Inhabitants of the *Rolls Liberty*, against the Impropriator, Curate, and Overseers of the Poor of the Parish of *St. Dunstan* in the West, *London*, for an Account of Charities given by several Wills and Deeds to the Poor of the said Parish; and as the Liberty of the *Rolls* was Part of the Parish of *St. Dunstan*, and the Inhabitants of that Liberty on the said Parish Church being lately repaired, had been assessed, and paid a fifth Part towards the Repairing thereof (*viz.* 300 *l.* out of 1500 *l.*) therefore it was prayed that the *Rolls Liberty* might have a Fifth of all the Charities by Will or Deed given to the Poor of *St. Dunstan's*, as likewise of the charitable Collections made

made at the Door of the Church, or at Sacraments.

It seems the Parish of *St. Dunstan*, with Regard to such Part thereof as is within the City of *London*, has separate Officers, both Church-wardens and Overseers, and maintain their Poor separately in like Manner; that Part which is within the County of *Middlesex* and Liberty of the *Rolls*, hath distinct Officers for the Poor, but as to the Chapel, that only belongs to the Master of the *Rolls*, who, *ex Gratia*, gives Leave to the Inhabitants to come there.

Lord *Parker*: Before the Statute of the 43 of *Eliz.* there were no such Officers as Overseers of the Poor, since which, as that Part of the Parish of *St. Dunstan* which lies in *London*, has had distinct Overseers, made distinct Rates, and maintained their Poor separately, this makes them a distinct Parish, for which Reason with respect to all Gifts of Charities by Will or Deed given to the Parish of *St. Dunstan* in the West, that Part of the Parish which lies in *London*, must have and

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enjoy the same exclusive of the *Rolls* Liberty ; but as to all such Gifts, Grants, or Devises, before the Statute of the 43 *Eliz.* as at that Time the Parish and Liberty were not separated by distinct Officers and Overseers of the Poor, the Liberty of the *Rolls* being then Part of the Parish, shall have a Proportion thereof; but the Liberty having contributed to the Repairs of the Church, and being really within that Parish, as to all Collections of Charities at the Church-Door, or at the Poor's Box, or at the monthly, or other Sacraments, which are in Part given by the Inhabitants of the *Rolls* Liberty, who have Seats in and repair to the Church of *St. Dunstan* ; and forasmuch as the Inhabitants of the *Rolls* Liberty pay towards the Parson and Lecturer of *St. Dunstan's* (there being in Vacation-time no Preaching at the *Rolls* Chapel) and contribute to the Charities of *St. Dunstan's*, so ought the Poor of the *Rolls* Liberty (being Part of the said Parish) to have a proportionable Share of those Charities ; wherefore to the Intent

tent it may be seen whether this has been observed, let the Dispositions of these last mentioned Charities be specified in a Book containing the Names of the Persons to whom given, and for what Purpose.

Memorandum, It being said in this Case, that to the Charity-Money given at Sacraments, the Parson was not bound to distribute it amongst the Poor of the same Parish, but might bestow it on any Object of Charity.

Cur': I will not now determine this; tho' surely if equal Objects of Charity are to be found within the Parish, they in Reason ought to be preferred. *W. P. W.* Vol. I. 669, 670, 671.

N. B. In the Decree which was made in this Cause on the 23d Day of *November* in the 7th Year of King *George* the First, his Lordship declared as to the Charities given to the Poor of the Parish of *St. Dunstan* since the Statute of the 43d of *Eliz.* it plainly appeared they were given to the Parish, exclusive of the Liberty of the *Rolls*. But as to such Charities as were given before that Time,

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his Lordship declared that the Poor of the Liberty ought to be considered as Part of the Poor of the Parish. But that the *Disposition* thereof belonged to the *Church-wardens* of the Parish, and the Overseers of the *Rolls* were at Liberty to recommend such Poor as they conceived the greatest Objects of Charity; and that as to the Monies collected at the Sacraments in the Parish Church, at the Church-Doors, and in the Poor's Box, due Regard ought to be had to the Poor of the Liberty, as Part of the Poor of the Parish; and his Lordship ordered and decreed accordingly.

Hill. I Geo. I.

The King *and* Inhabitants of Bury Pomroi.

37. **A** Poor Child of the Parish of *Stock Fleming*, is by the Church-wardens bound an Apprentice to *A.* in that Parish, and there lives with his Master two Years, then *A.* removes to the Parish

Parish of *Bury Pomroi*, but gains no Settlement, and there the Apprentice serves out the remaining five Years of his Time.

Held, That this was a Settlement of the Apprentice in the Parish of *Bury Pomroi*, and that it was not necessary that the Binding and Service should be in one and the same Parish.

The Statute 12 *A.* whereby it is declared that a Servant can gain no Settlement, unless the Master does, relates only to Certificate Masters. *Lu. Ca.* in *L. & E.* 279.

Hill. 1 G. I.

Britewell and Henley.

328. **T**Hree Weeks after *Michaelmas*, a Servant is hired until *Michaelmas* following; and upon *Michaelmas* he was hired for a Year until next *Michaelmas*, but did not serve out the Year, but his Service in both Years was above a Year: The Question was, whether this was a Settlement? for tho' here was a Hiring for a Year, and a Service for a Year, yet it

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it was not a Year's Service subsequent to that Hiring.

Parker C. J. the rest concurring, It is a Settlement, for here is a Hiring for a Year, and Service for a Year, tho' not under that Hiring; which was resolved not to be necessary in the Case of *Overton* and *Stapleton*.

A Servant during a whole Year is hired from Week to Week, then is hired for a Year, and serves one Week: This is no Settlement for Want of Continuance in the Service. Forty Days after the 2d Hiring. *Lu. Ca. in L. & E. 287.*

Britwell and Hopley.

Three Weeks after Michaelmas
A Servant is hired until Michaelmas following, and upon Michaelmas he was hired for a Year until next Michaelmas but did not serve out the Year, but the Service in both Years was above a Year: The Question was whether this was a Settlement, for the hire was a Hiring for a Year and a Service for a Year, yet it

An ABSTRACT *of the* ACTS *of*
PARLIAMENT *relating to*
the POOR.

1. **T**HE 43 *Eliz. C. 2.* 'The Church-wardens of every Parish, and four, three, or two Housholders there, (according to the Greatness of the Parish) to be nominated yearly in *Easter-Week*, or within one Month after, under the Hands and Seals of two Justices of the Peace, (one *Quorum*) shall be called Overseers of the Poor for the same Parish.

2. These Overseers, or the greater Part of them, shall take Order (with the Consent of two such Justices) for the setting of poor People to work, and for raising (by Taxation) a convenient Stock to work upon, to relieve impotent Persons, to put forth Apprentices, and to perform all other Things concerning the Premisses.

3. These

3. These Officers, or such of them as shall not be let by some just Excuse (to be allowed by two such Justices) shall meet monthly in the Church upon *Sunday* after Evening Prayer, and there consider of some meet Direction in the Premises ; and shall, within four Days after the End of their Year, and other Overseers nominated, yield up a true Account to two such Justices, pay the Surplusage thereof to their Successors, and use all possible Diligence in their Office, in Pain to forfeit for every such Default 20 s.

4. Where the Inhabitants of any Parish are not able to relieve themselves, two such Justices may tax other Parishes and Places, and the whole Hundred also (if need require) ; and where the whole Hundred is not able, Justices of the Peace in Sessions may tax the Country in Part, or wholly, at their Discretions.

5. It shall be lawful for the said Officers, upon Warrant from two such Justices,

ces to levy such Tax or Surplusage, by Distress and Sale of Goods; and in Default of Distress, two of the said Justices have Power to commit the Party to Prison, there to remain without Bail until it be discharged, and also to commit Persons which refuse to work, to the House of Correction.

6. The said Officers, or the greater Part of them, with the Assent of two Justices of the Peace, may bind poor Children Apprentices, viz. a Man-child till twenty-four Years of Age, and a Woman child till twenty-one Years, or Marriage.

7. The said Officers shall (with the Consent of the Lord of the Manor first obtained in Writing under his Hand and Seal) either of themselves, or by Virtue of a Sessions Order, erect Cottages upon the Waste, and lodge Inmates therein, notwithstanding the Statute of 31 *Elix.* 7. but those Cottages shall not be afterwards otherwise employed than to lodge im-
tent

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rent Persons therein, upon the Pains mentioned in the said Statute of 31 *El.*

8. Justices of Peace, in Sessions, shall rectify unjust Taxes, whose Order therein shall be binding to all Parties.

9. The Father, Grandfather, Mother, Grandmother, and Children of every poor Person, shall be assessed towards their Relief, as the Justices of Peace, in Sessions of the County where such Father, &c. dwells, shall limit and appoint, in Pain to forfeit 20 s. a Month.

10. Officers in Corporate Towns, and Aldermen of *London*, have in their several Precincts, like Authority that Justices of Peace have in their Counties; which said Justices are not to intermeddle in Corporations for the Execution of this Law.

11. When one Parish extends into several Counties or Liberties, the Justices or Head Officers shall only intermeddle with-

in their respective Limits ; but the Churchwardens and Overseers have mix'd Jurisdiction, and shall render Account (as aforesaid) to Justices or Head Officers of both Places.

12. If it happen Overseers not to be appointed according to this Statute, every Justice of Peace, or Head Officer of that Division or Corporation, shall forfeit $5l.$ to be levied by a Sessions Warrant, and employed to the Use of the Poor of the Parishes where such Default is made.

13. The Forfeiture of this Statute shall be employed to the Use of the Poor, and levied by Distress and Commitment, as aforesaid.

14. Justices of Peace of every County and Corporation, or the most Part of them, at *Easter* Session, shall yearly (or as often as they shall think fit) rate every Parish at a certain Sum to be paid weekly ; but so as no Parish may pay more than six Pence, nor less than an Half-penny ;

ny; and one Parish considered with another, not above two Pence, through the whole County or Corporation: Which Sum so rated, the Church-wardens and Constables of every Parish, or any of them, (or in their Default, a Justice of Peace) have Power to assess and levy by Distress, Sale, and Commitment, as aforesaid.

15. Justices of Peace shall then likewise rate every Parish towards the Relief of the *King's Bench* and *Marshalsea*, and also of Hospitals and Alms-houses situate within their several Jurisdictions, appointing only so much to the said Hospitals and Alms-houses, that the *King's Bench* and *Marshalsea* may each of them receive at least 20 s. yearly out of every County. And the Sum thus to be assessed upon every Parish, the Church-wardens there shall collect and levy as before, and pay them over quarterly to the High Constable of that respective Division, ten Days before every Quarter-Sessions; and the High Constables shall, every Quarter-Session,

sion, pay the same over to the two Treasurers of the County, or one of them, to be yearly chosen by the more Part of the Justices of Peace out of such Subsidy-Men as were taxed in the last Tax of Subsidies at 5 *l.* Lands, or 10 *l.* Goods : Which Treasurers so chosen, shall yearly at *Easter-Sessions*, render a true Account to their Successors, and pay the Monies in their Hands to the Lord Chief Justice of the King's Bench and the Knight Marshal, by equal Portions. And here the Churchwarden, or his Executors, &c. which fails in Payment to the High Constable, shall forfeit 10*s.* And the High Constable, or his Executors, &c. which fails in Payment to the Treasurers, shall forfeit 20*s.* to be levied and employed by the said Treasurers, as aforesaid.

16. The Stock of every County shall be ordered and disposed to charitable Uses, as the Justices, or the more Part of them shall think convenient.

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17. The

17. The Treasurer that refuseth to execute his Office, to distribute Relief, or to account, as the most Part of the Justices shall direct, shall be fined by the same Justices, or (in their Default) by the Judges of Assize, three Pounds at least; which Fine shall be levied by Sale of Goods, upon the Prosecution of any two Justices authorized by the rest.

18. A Provision for the Island of *Foulness* in *Essex*.

19. Upon an Action brought for the due Execution of this Act, the Defendant may plead the general Issue, and yet give special Matter in Evidence, and shall also recover treble Damages, and his Costs of Suit.

7 *Jac.* 1. *cap.* 3. Money given to put out poor Children Apprentices, shall be employed in Corporate Towns by the Corporations, and in other Places by the Parson or Vicar, together with the Constables,

bles, Church-wardens and Overseers of the Poor, or the most Part of them, who shall not forbear, or refuse to employ the same accordingly, in Pain to forfeit five Marks each of them so making Default, to be divided betwixt the Poor of the Parish and the Prosecutor.

The Party receiving Money with such an Apprentice, shall give good Security, by Obligation, to repay it at the End of seven Years next ensuing the Date of the said Obligation, or within three Months next after the End of the said seven Years; and if such Apprentice shall die within the seven Years, then within one Year after his or her Death; and if the Master, Mistress, or Dame happen to die within the seven Years, then within one Year after their Death, so as the Money may be employed in placing the Apprentice with some other of the same Trade, to serve out his Time, at the Discretion of the Parties trusted, as aforesaid.

The Money so given shall be employed within three Months after the Receipt thereof; and if there shall not be apt

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Persons found to be Apprentices in the Places where it is given, it shall be employed in the Parishes next adjoining, by the Parties that are trusted with it in the Places where it was so given ; and there also Bond shall be taken, as is before declared.

The Choice of Apprentices shall be out of the poorest Sort of Children, whose Parents are least able to relieve them ; and no such Apprentice shall be above the Age of fifteen Years, when he or she is first bound.

The Parties so trusted, shall yearly in *Easter-Week*, or within one Month after, account before Two or more of the next Justices of Peace ; and if there be any Obligations, or Money remaining in their Hands, they shall upon such Account (or within ten Days after) deliver the same unto their Successors.

If any Officer so trusted, shall break the Trust reposed in him, mis-employ the same Money, or do any Thing contrary to this Act, for which he cannot be punish'd by this Act, the Lord Chancellor

or

or Keeper shall, upon the Petition of any Person, award a Commission to such as he shall think fit, to enquire, hear and determine such Offences: And if the Commissioners shall find Money so mis-employed, they shall, in Places not corporate, have Power to rate, raise, and collect it upon the Parties so offending, or otherwise upon the able Inhabitants of the City, Town, or Parish so in Default, as the said Commissioners, or the greatest Part of them, shall think fit; and shall return the said Commission, together with the Manner of executing the same, into the Chancery, within three Months next after such Execution thereof.

1 *Fac.* 1. c. 25. All Persons, to whom the Overseers of the Poor shall (according to the Statute of 43 *Eliz.* c. 2.) bind any poor Children Apprentices, may take, receive, and keep them as Apprentices.

3 *Car.* 1. c. 4. The aforesaid Statute of 1 *Fac.* 1. cap. 25. is again continued and confirmed.

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The Church-wardens and Overseers of the Poor (mentioned in the Statute of 43 *El. c. 2.*) may, with the Consent of two or more Justices of the Peace (one of the *Quorum*) within their respective Limits where there shall be more Justices of Peace than one; and where no more shall be than one, with the Assent of that one Justice, set up, use, and occupy any Trade, Mystery or Occupation, only for the setting on Work and better Relief of the Poor of the Parish, or Place where they so bear Office respectively.

13 & 14 *Car. 2. cap. 12.* Upon Complaint by the Church-wardens and Overseers of the Poor to any Justice of Peace, within forty Days after any poor Person cometh to settle in a Tenement under 10*l. per Ann.* two Justices of Peace, whereof one to be of the *Quorum*, may by Warrant remove such Person to the Parish where they were last legally settled for forty Days, unless they give Security to be allowed by the said Justices for Discharge of

of the Parish. Persons aggrieved may appeal to the Quarter-Sessions.

But Persons having a Certificate from the Minister of the Parish, and one Church-warden, and one Overseer of the Poor, declaring them Inhabitants there, may go into any Parish to work, and the not returning of such Persons, when their Work is finished, or falling sick whilst they are at Work, shall not be accounted a Settlement: If any return to the Parish from whence they are removed, a Justice of Peace may send them to the House of Correction, to be punished as Vagabonds, or to a public Work-house, to be employed in Labour; and if the Church-wardens and Overseers of any Parish to which any are removed, refuse to receive them, and provide them Work, a Justice of Peace may bind over such Officers to the Assizes or Sessions.

There shall be one or more Corporation or Corporations, Work-house or Work-houses in the Towns and Places in the Parishes mentioned in the weekly Bills of Mortality, consisting of a President, De-

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puty and Treasurer: The Mayor of *London* to be President of the Corporations in *London*, and the Assistants to be the Aldermen, and fifty-two Citizens chosen by the Common Council. The President and major Part of the Assistants may elect a Deputy President and Treasurer, and other necessary Officers hereby authorized to execute the Powers in this Act. A President, Deputy President and Treasurer and Assistants, shall be appointed by the Chancellor of *England*, of Persons inhabiting in *Westminster*, for the Corporation thereof.

For other Places within the Bills of Mortality in *Middlesex* and *Surry*, the Justices of Peace, in their Quarter-Sessions, shall chuse such Officers out of the Inhabitants of the said Counties respectively, and take an Account of their Receipts and Disbursements, and how many Poor were employed the Year last past: Every of the said Corporations may, without Licence in Mortmain, purchase Lands not exceeding 3000*l.* per *Annum*, and any Goods whatsoever. Each Corporation, or seven of them, may keep Courts for these Purposes,

poses, when, and where the President, his Deputy, or the Treasurer shall appoint, at the Desire of any Four of the Corporation, and may appoint a common Seal.

The President and Governors of the said Corporation, or any Two of them, or any appointed by them, may apprehend Rogues, Vagrants, sturdy Beggars, or disorderly Persons, and cause them to be set to work in the several Work-houses.

If the President and Governors of any the said Corporations certify under their common Seal, their Want of a Stock to found the Work, or supply it for the Future, to the Common Council of the City of *London*, the Burgesses and Justices of Peace of *Westminster*, or the Justices of Peace of *Middlesex* and *Surry* in their Quarter-Sessions, they shall ascertain such Sums not exceeding one Year's Rate usually set upon, due for Relief of the Poor, and proportion the same upon the several Divisions as they think fit: And the Aldermen, Deputies, and Common Council, Men of every Ward in *London*, and Burgesses and Justices of Peace of *Westminster*,
and

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and Justices of Peace of *Middlesex* and *Surry*, may, for the several Precincts, tax the Inhabitants. Persons aggrieved may complain to the next open Sessions, who shall take final Order therein.

Any Alderman of *London*, or his Deputy, the Burgesses and Justices of Peace of *Westminster*, or two of them, or two Justices of Peace of *Middlesex* and *Surry*, under Hand and Seal may authorise the Church-wardens or Overseers to gather such Money; and for Want of Payment within ten Days after Demand or Notice left in Writing at any Person's House, to levy the same by Distress and Sale of Goods.

The respective President and Governors, of any Seven, may make By-Laws (to be presented to, and allowed by the Justices of Peace in their Quarter-Sessions) for the regulating and setting the Poor to work, punishing Vagabonds and Beggars. The President and Governors, or any Fourteen of them, may chuse Officers to be employed about the Premises, and remove them as they see Cause, and make reasonable

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Allowances to them out of the Stock. All Ministers of Justice shall be aiding and assisting towards the Execution of this Act.

If Constables, Headboroughs or Tithing-men die, or go out of the Parish, two Justices of Peace may swear new ones, till the Lord of the Manor hold a Court-Leet, or till the next Quarter-Sessions, who shall approve of them, or appoint others; and if any Officers continue above a Year, the Justices of Peace may discharge them, and put in others, till the Lord of the Manor hold a Court.

Any Justice of Peace to whom any Rogue, Vagabond, &c. apprehended shall be brought, may reward those that apprehend them, by granting them a Warrant under Hand and Seal to the Constable, Headborough, or Tithingman of such Parish where such Vagabond, &c. passed through unapprehended, to pay such Person two Shillings for every Vagabond, &c. apprehended, on Pain of being proceeded against according to the Statute of 39 E¹. and 1 Jac. 1. cap. 1. and out of the Money

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ney forfeited upon the Stat. of 1 Jac. 1. may allow the said two Shillings.

They that apprehend Vagabonds, &c. at the Confines of a County, which passed through any Parish into another County unapprehended, may go to a Justice of Peace of that County, who upon Certificate from some Justice of Peace of the County where such Rogue, &c. was apprehended, may grant such Warrants as aforesaid: And in Case of Refusal may cause such Constable to pay to such Persons 10s. or so much thereof for their Expences and Loss of Time as he thinks fit, which he hath forfeited by 39 *El.*

Constables, Headboroughs and Tithingmen out of Purse for conveying Vagabonds, &c. to Houses of Correction or Work-houses, they, the Church-wardens and Overseers of the Poor, and other Inhabitants in the Parish, may tax all chargeable by the 43 *El. cap. 2.* which Rate being confirmed under Hand and Seal by two Justices of the Peace, the said Constables, &c. by Warrant under Hand and Seal of two

two Justices, may levy it by Distress and Sale of Goods.

Church-wardens and Overseers for the Poor, where any Bastard-Child shall be born, may seize so much of the Goods and Profits of the Lands of the putative Father and lewd Mother, as two Justices of Peace shall order towards discharge of the Parish, to be confirmed at the Sessions, who may make an Order for the Church-wardens, &c. to dispose of the Goods by Sale, or otherwise, as they shall think fit, and receive the Profits of so much of their Lands as shall be ordered by the Sessions.

Persons sued for what they do in Execution of this Act, may plead the general Issue, and give the special Matter in Evidence, and shall have treble Costs, if the Verdict be for them, or the Plaintiff be nonsuit or discontinue.

The Poor in every Township or Village in *Lancashire, Cheshire, Derbyshire, Yorkshire, Northumberland, Bishoprick of Durham, Cumberland, and Westmoreland*, shall be provided for in the Township and Village where they inhabit, or where last legally

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gally settled; and Two or more Overseers shall be chosen in every Township, &c. who shall execute all Powers for the Relief of the Poor, under the Penalties mentioned in 43 *El. cap. 2.*

Justices of Peace in the said Counties shall execute all Powers within any Parish, by 43 *El.* and under the like Penalties for Non-performance.

Justices of Peace in their Quarter-Sessions may cause to be transported Rogues &c. duly convicted, and adjudged incorrigible, to *English* Plantations beyond Sea.

The Rights of the Dean and Chapter of the Collegiate Church of *St. Peter* in *Westminster* saved. This Act to continue to the End of the first Session of the next Parliament, and no longer, except what concerns the Corporations constituted hereby. Continued, except what concerns Corporations thereby constituted; per 1 *Jac. 2. cap. 17.* see after.

22 & 23 *Car. 2. cap. 18.* The Officers of the Corporations erected and constituted in pursuance of the Act of 14 *Car. 2.*

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cap. 12. shall make quarterly Accounts to the Justices of Peace, and are not to raise any more Money upon new Certificates, till there be a just Account given to, and allowed by the Justices of Peace aforesaid.

Debts contracted for the Uses expressed in the said Act, shall, upon Order from the Justices aforesaid, be discharged by the respective Treasurers, and allowed in their Accounts.

No Sums to be levied upon any of the said respective Parishes, shall in one Year exceed the fourth Part of the Assessment to the Poor for that Year: Which Sum shall be paid at two several Payments to the Treasurers, (*viz.*) at *Michaëlmas* and the *Annunciation*, or within fourteen Days after.

No Assessment shall be laid on any of the Parishes aforesaid after the twentieth of *September* 1675.

Nothing herein contained shall alter or vacate any of the Powers given by the former Act to the Lord Mayor and Governors for the Corporation within *London*, or the Parish of *St. Margaret Westminster*.

22 & 23 Car. 2. cap 16. An Act for the Discovery of such as have defrauded the Poor of the City of *London*, of the Monies given for their Relief, at the Time of the late Plague and Fire, and for Recovery of the Arrears thereof. See the *Statutes at large*.

1 Jac. 2. cap. 17. The Act of 13 & 14 Car. 2. entitled, *An Act for the better Relief of the Poor of this Kingdom*; (except what relates to the Corporations thereby constituted) shall be in Force from the first Day of this present Session of Parliament for seven Years, and from thence to the End of the next Session of Parliament.

And whereas poor Persons, at their first coming to a Parish, do commonly conceal themselves, the forty Days intended by the said Act to make a Settlement, (*Vide supra Sect. 30.*) shall be accounted from the Time of their Deliveries of Notice in Writing of their House of Abode, and the Number of their Family, if they have
any,

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any, to one of the Church-wardens or Overseers of the Poor of the said Parish.

Revived as to what relates to Settlements of Poor, *per 3 & 4 W. & M. Sess. 3. cap. 11.*

Continued to all, except what relates to Corporations, *per Stat. 4 & 5 W. & M. Sess. 4. cap. 24. sect. 11.* continued, except what relates to Corporations thereby constituted, *per 5 Ann. cap. 34.*

3 & 4 W. & M. cap. 11. The Act made in the 13th and 14th Years of the late King *Charles* the Second, intituled, *An Act for the better Relief of the Poor of this Kingdom*, (except what relates to the Corporations therein mentioned) which was revived and continued with Alterations, by an Act made 1 *Jac. 2.* shall be in Force from the first Day of *March* 1691.

The forty Days Continuance of a Person, intended by the said Acts to make a Settlement, shall be accounted from the Publication of a Notice in Writing, which he or she shall deliver, of the House of

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his or her Abode, and Number of his or her Family, to the Church-warden or Overseer of the Poor, which shall be read immediately after Divine Service, in the Church or Chapel of the Place on the next Lord's Day, when there shall be Divine Service in the same; the Church-warden or Overseer to register such Notice in the Book kept for the Poor's Accounts.

No Soldier, or other Person in their Majesties Service, shall have Settlement by Delivery and Publication of Notice as aforesaid, unless they be dismissed the Service.

Church-wardens or Overseers refusing to read, or cause to be read, such Notice as aforesaid (upon Proof thereof by two Witnesses upon Oath before a Justice of Peace) shall forfeit 40s. to the Use of the Party grieved, to be levied by Distress and Sale of Goods, by Warrant of a Justice of Peace to the Constable; and for Want of a Distress, shall be committed to Gaol for a Month; and if any Church-warden or Overseer shall neglect or refuse to register such Notice as aforesaid, they shall
forfeit

forfeit 40 s. to be levied as aforesaid; and for want of Distress, shall be committed as aforesaid.

If any Person coming to inhabit in any Town or Parish, shall on his own Account, execute any publick Annual Office or Charge in the same, during a Year, or pay his Share towards the public Taxes, or Levies of such Towns, &c. he shall be adjudged to have a legal Settlement without Notice in Writing deliver'd, &c.

If any unmarried Person, not having Child or Children, shall be lawfully hired for a Year, such Service shall be deemed a good Settlement without Notice, &c.

Being bound Apprentice, and inhabiting in a Town or Parish, shall be adjudged a good Settlement.

Persons aggrieved by the Determination of any Justices of Peace, may appeal to the next Quarter-Sessions, who shall finally determine the same.

If any Person be removed by Virtue of this Act from one Place to another, by Warrant of two Justices of Peace, the Church-wardens or Overseers of the Place

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to which he shall be removed shall receive him; and in Case of Refusal, (upon Proof by two Witnesses upon Oath before a Justice of Peace of the County, Riding, &c. to which he shall be removed) shall forfeit 5*l.* to the Use of the Poor of the Parish from which he shall be removed, to be levied by Distress and Sale of Goods, &c. by Warrant of a Justice of Peace of the County, &c. to which he shall be removed, to the Constable of the Place where such Offender dwells; and for want of a Distress, shall be committed to Gaol for forty Days.

Persons aggrieved by the Judgment of the said two Justices, may appeal to the next General Quarter-Session of the Place from which the said Person was removed.

There shall be kept in every Parish, at the Parish Charge, a Book or Books, wherein the Names of Persons receiving Collections shall be registred, with the Time when they were first admitted to have Relief, and the Occasion of their Necessity: And yearly in *Easter* Week, or oftner, the Parishioners shall meet, and have such

Books

Books produced before them, and the Persons receiving Collections shall be called, and the Reasons of their taking Relief examined, and a new List to be made and entered of such as they shall think fit to allow to receive Collection; and no other shall be allowed to receive Collection, but by Authority under the Hand of a Justice of Peace residing in the Parish; and if there be none in the Parts next adjoining, or by Order of the Justices of Peace in their Quarter-Sessions, except in Cases of pestilential Diseases, Plague, or Small-pox in respect of Families infected only.

In all Actions to be brought in the Courts at *Westminster*, or at the Assizes, for Money mispent by the Church-wardens or Overseers, the Evidence of the Parishioners (other than such as receive Alms) of the Parish where the Defendants are Inhabitants, shall be taken and admitted.

8 & 9 *W. 3. cap. 30.* If any Person who after the first Day of *May* 1697, shall come to any Parish or other Place to inhabit, shall at the same Time deliver to

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any of the Church-wardens or Overseers of the Poor of the Place where he comes, a Certificate under the Hands and Seals of the Church-wardens and Overseers of the Poor of any other Parish or Place, attested by two or more Witnesses, thereby owning the Person mentioned in the Certificate, to be an Inhabitant legally settled in that Parish or Place; such Certificate having been allowed and subscribed by two Justices of Peace of the County, City, or Borough from whence it comes, shall oblige the said Parish or Place to receive and provide for the Person mentioned in the Certificate, with his Family as Inhabitants, whenever the Party shall happen to become chargeable to the Place to which such Certificate was given; and then, and not before, it shall be lawful for such Person and his Children, (though born in that Parish) not having otherwise acquired a legal Settlement, to be removed to the Place from whence such Certificate was brought.

After the first of *September* 1697, every such Person as shall receive Relief of any
Parish

Parish or Place, and the Wife and Children cohabiting in the same House, (except such Child as shall be permitted to live at Home to attend some helpless Parent) shall upon the right Shoulder of their upper Garment, in a visible Manner, wear a large *Roman P*, with the first Letter of the Name of the Parish, or Place where the said Person inhabits, cut in red or blue Cloth, as the Church-wardens or Overseers shall appoint. The poor Person neglecting or refusing to wear such Badge or Mark, may be punished by any Justice of Peace of the County, either by ordering his or her Relief on the Collection to be abridged or withdrawn, or by committing the Party to the House of Correction, not exceeding Twenty-one Days. And if any Church-warden or Overseer of the Poor, after the said first of *September*, shall relieve any such poor Person, not wearing such Badge, he being convicted by one Witness before a Justice of Peace shall forfeit for every such Offence 2*s.* to be levied by Distress and Sale of Goods; one

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Moiety to the Use of the Informer, the other to the Poor of the Parish.

Justices of Peace at their Quarter-Sessions, upon any Appeal concerning the Settlement of any poor Person, or upon Proof of Notice given of an Appeal, (though the Appeal was not afterwards prosecuted) shall award to the Party for whom such Appeal shall be determined, or to whom such Notice had been given, such Costs and Charges as the said Justices shall think reasonable. And if the Person ordered to pay such Costs shall live out of the Jurisdiction, any Justice of Peace where such Person shall inhabit, may and shall upon Request, and a true Copy of the Order for Payment produced and proved upon Oath, cause the Money mentioned in that Order to be levied by Distress; and in Case no Goods can be found, to commit the Person to Prison for twenty Days.

No unmarried Person not having Child or Children, lawfully hired into any Parish or Town for one Year, shall be deemed to have a good Settlement in such
Parish

Parish, unless he shall continue in the same Service during one whole Year.

Where any poor Children shall be appointed to be bound Apprentices, pursuant to the Act of 43 *Eliz. cap. 2.* the Persons to whom they are appointed to be bound, shall receive and provide for them according to the Indenture ; and upon Refusal so to do, upon Oath thereof made by a Church-warden or Overseer, before two Justices, he or she so offending shall forfeit 10*l.* to be levied by Distress and Sale of Goods, to be applied to the Use of the Poor of the Parish where such Offence was committed. Saving to such Persons their Appeal to the next Quarter-Sessions for that County ; whose Order therein shall be final.

After the first of *May* 1697, the Appeal against any Order for the Removal of any poor Person, shall be had at the General or Quarter-Sessions of the County or Division, wherein the Parish or Place from whence such Person shall be removed doth lie, and not elsewhere.

Nothing

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Nothing in this Act to extend to make void any Promise already made, to receive and take back any Persons, in case they should become poor, or want Relief;

Nor be construed to hinder the Justices of Peace within the Liberties of *St. Albans*, from hearing and determining Appeals in their Quarter-Sessions, as they might have done before the making of this Act.

9 & 10 W. 3. cap. 11. For explaining the Act made the last preceding Session, intituled, *An Act for supplying some Defects in the Laws for the Relief of the Poor of this Kingdom*; whereby it was enacted, that such Persons, as after the first of May 1697, shall come into any Parish or Place to inhabit or reside, should at the same Time deliver to the Church-wardens or Overseers of the Poor there, a Certificate as by the Act directed; It is declared, that no Person who shall come into any Parish by any such Certificate, shall be adjudged by any Act whatsoever, to have procured a legal Settlement in such Parish, unless such Person shall *bona fide* take a
Lease

Lease of a Tenement of 10l. per Ann. or shall legally be placed in, and execute some annual Office in such Parish.

3 *Ann. cap. 34.* An Act for continuing the Laws therein mentioned relating to the Poor, and to the Buying and Selling Cattle in *Smithfield*, and for suppressing of Piracy.

That the Act of 13 & 14 *Car. 2. cap. 12.* *For the better Relief of the Poor of this Kingdom*; which by 3 & 4 *W. & M. cap. 11.* (as to what related to Settlement of the Poor) was enacted to be in Force from the first of *May 1691*, but no Continuance thereby made as to divers other Parts of the said Act; which said Act, *For the better Relief of the Poor, &c.* as to all Parts not continued by the said Act of 3 & 4 *W. & M.* (except what relates to Corporations) mentioned in the said Act, for better Relief of the Poor, was by 4 & 5 *W. & M. cap. 24.* continued for the Space of seven Years from the 13th of *February 1692*, and from thence to the End of the next Session of Parliament;
which

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which said Act by 11 & 12 W. 3. cap. 13. was continued for seven Years, from the 29th of September 1700, shall be in Force from the 25th of March 1707, except what relates to the Corporations therein mentioned, and thereby constituted for seven Years, and from thence to the End of the next Session of Parliament.

12 Anna, cap. 18. Enacted, That the Act made in 13 & 14 Car. 2. Entituled, *An Act for the Relief of the Poor*, which has been continued by several Acts, shall be made perpetual.

Any Person, who after the 24th of June 1713, shall be an Apprentice bound by Indenture, or be a hired Servant to one who came into any Parish by Certificate, and not having afterwards gained a legal Settlement in such Parish, such Apprentice, by Virtue of his Apprenticeship, Indenture, or Binding, and such Servant, by being hired, or serving as a Servant to such Person, shall not gain any Settlement in the Parish by Reason of such Apprenticeship, or binding, or hiring, or serving

serving therein, but shall have his Settlement in such Parish, as if he had not been bound Apprentice, or been an hired Servant to such Person, &c.

1 Geo. 1. cap. 8. sect. 1. Enacted, That it shall be lawful for the Church-wardens or Overseers of any Parish where any Wife, Child, or Children shall be left by their Husbands, Fathers, or Mothers, on the Charge of such Parish where they were born, or last legally settled, upon Application to, and by Warrant or Order from any two Justices of Peace, to take and seize so much of the Goods and Chattels, and receive so much of the annual Rents and Profits of the Lands and Tenements of such Husband, Father, or Mother, as such two Justices shall direct, for the Discharge of the Parish where such Wife, Child or Children are left, for the bringing up, and providing for such Wife, &c. which Warrant or Order being confirmed at the next Quarter-Sessions, the Justices at such Quarter-Sessions may make an Order to dispose of such Goods or Chattels by

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by Sale or otherwise, or so much of them as the Court shall think fit, for the Purposes aforesaid ; and to receive the Rents and Profits, or so much of them as shall be ordered by the Sessions, of his or her Lands and Tenements, for the Purposes aforesaid.

Seet. 2. The Church-wardens and Overseers shall be accountable to the Justices at the Quarter-Sessions, for all such Monies as they shall receive by Virtue of this Act.

9 Geo. 1. cap. 7. sect. 1. After the 25th of *March* 1723, no Justice of the Peace shall order Relief to any poor Person dwelling in any Parish, till Oath be made before some Justice, of some Matter which he shall judge to be a reasonable Cause for having such Relief: And that the same Person had by himself, or some other, applied for Relief at some Vestry, or other public Meeting of the Parishioners, or to two of the Overseers of the Poor of such Parish, and was by them refused to be relieved;

lieved; and till such Justice hath summoned two of the Overseers to shew Cause why such Relief should not be given; and the Person so summoned hath been heard, or made Default to appear before such Justice.

Seet. 2. The Person, whom such Justice shall order to be relieved, shall be entered in the Parish Books, as one of those who is to receive Collection, as long as the Cause for such Relief continues, and no longer. And no Officer of any Parish shall (except on sudden and emergent Occasions) bring to the Account of the Parish, any Monies he shall give to any poor Person who is not registred in the Parish Book, as a Person entitled to receive Collection, on Forfeiture of 5*l.* to be levied by Distress and Sale, by Warrant of two Justices, who shall have examin'd into, and found him guilty of such Offence; to be applied for the Use of the Poor of the Parish, by Direction of the Justices.

Seet. 4.

Señ. 4. The Church-wardens and Overseers, in any Parish, Town, Township, or Place, with the Consent of the major Part of the Parishioners or Inhabitants in Vestry, or other Parish or public Meeting assembled, or of so many of them as shall be so assembled, may purchase or hire any Houses in the same Parish, &c. and contract with Persons for the Lodging, Maintaining and Employing all such Poor in their respective Parishes, &c. as shall desire to receive Relief; and there keep and employ them, and take the Benefit of their Work and Labour, for their better Maintenance and Relief. And if any poor Person shall refuse to be lodged, or maintained in such House, he shall be put out of their Books where the Names of the Persons who ought to receive Collection are to be registred, and shall not be entitled to receive Relief from the Church-wardens and Overseers. And where any Parish, &c. shall be too small to purchase or hire such Houses for the Poor of
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their own Parish only; two or more such Parishes, &c. with the like Consent as above, with the Approbation of a Justice of the Peace, dwelling in or near such Parish, &c. under his Hand and Seal, may unite in purchasing or hiring such Houses, for the Lodging and maintaining the Poor of the several Parishes, &c. so uniting, and there keep, and employ them, &c. And if any poor Person in the Parishes so uniting, shall refuse to be lodged there, he shall be put out of their Collection Book, and not entitled to demand Relief. And the Church-wardens and Overseers of any Parish, &c. with the like Consent of the Parishioners, &c. as above, may contract with the Church-wardens and Overseers of any other Parish, &c. for the Lodging, Maintaining, or Employing of any poor Persons of such other Parish, &c. And if the Poor of such other Parish shall refuse to be lodged, &c. they shall be put out of the Collection Book, and not entitled to ask Relief: Provided that no poor Person; his Apprentice or Children, shall acquire a Settlement in the Parish, &c. to which

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they are removed by Virtue of this Act; but their Settlement shall remain in such Parish, &c. as it was before such Removal.

Sect. 5. After the 25th of *March* 1723, no Person shall be deemed to acquire any Settlement in any Parish, by Virtue of any Purchase of an Estate or Interest in such Parish, whereof the Consideration for such Purchase does not amount to 30*l.* for any longer Time than such Person shall inhabit in such Estate; and shall then be liable to be removed to such Parish, where he was last legally settled before the Purchase, and Inhabitation therein.

Sect. 6. No Person, who after the 25th of *March* 1723, shall be taxed to the Scavenger, or Repairs of the Highways, and shall duly pay the same, shall be deemed to have a legal Settlement in any City, Parish, &c. by reason of his paying to such Scavenger's Rate, or Repairs of the Highway.

Sect. 7.

Sect. 7. The Justices within the Liberty of the Borough of *St. Peter*, and Hundred of *Nassaborough* in the County of *Northampton*, may hear and determine all Appeals, against any Order for Removal of any poor Person, in their Quarter-Sessions, as they might have done before the making the Act 8 & 9 *W. 3. cap. 30.*

Sect. 8. After the 25th of *March 1723*, no Appeal from any Order of Removal of a poor Person from one Parish to another, shall be proceeded upon in any Court or Quarter-Sessions, unless reasonable Notice be given by the Churchwardens or Overseers of the Parish, who shall make the Appeal to the Churchwardens, &c. of the Parish from which such poor Person shall be removed. The Reasonableness of which Notice, shall be determined by the Justices at the Quarter-Sessions, to which the Appeal is made; and if it shall appear that reasonable Time of Notice was not given, then they shall adjourn the Appeal to the next Quarter-

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Sessions, and there finally determine the same.

Seet. 9. After the 24th of June 1723, If the Justices shall at their Quarter-Sessions, upon an Appeal concerning the Settlement of any poor Person, determine in Favour of the Appellant, that such poor Person was unduly removed, then they shall award the Appellant so much Money, as shall appear to them to have been reasonably paid by the Parish on whose Behalf such Appeal was made, for the Relief of such poor Person, between the Time of such undue Removal and the Determination of such Appeal; and the Money so awarded to be recovered in the same Manner as Costs and Charges on an Appeal are prescribed to be, by the 8th & 9th of *W. 3. cap. 30.* *For supplying some Defects in the Laws, for the Relief of the Poor of this Kingdom.*

3 Geo. 2. cap. 29. sect. 8. After the 24th of June 1730, the Witnesses, who attested the Execution of Certificates of Settlements

ments by the Church-wardens and Overseers signing and sealing the same, or one of the said Witnesses, shall make Oath before the Justices, who by the Act 8 & 9 W. 3. cap. 30. are directed to allow the same, That such Witness did see the Church-wardens and Overseers severally sign and seal the said Certificates, and that the Names of such Witnesses are of their own Hand-Writing; and the Justices shall also certify that such Oath was made before them: And every such Certificate shall be allowed in all Courts as duly and fully proved, and be taken as Evidence without other Proof; and all Certificates given in pursuance of the said Act, before the 24th of June 1730, shall be also allowed in all Courts as Evidence, without other Proof, provided the same are duly allowed by two Justices of the Peace, as by the said Act is directed.

Secl. 9. When any Overseers of the Poor of any Parish, or other Persons, shall remove back any Persons, and their Families, sent thither by Certificate, and becoming

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chargeable, the Overseers, or other Persons, shall be reimbursed such reasonable Charges as they have been put to in maintaining and removing such Persons, by the Church-wardens or Overseers of the Parish to which such Persons are removed; the Charges being ascertained by one or more Justices of the County to which such Removal shall be made; which Charges so ascertained, shall, in Case of Refusal of Payment, be levied by Distress and Sale of the Church-wardens and Overseers Goods, rendering the Overplus, by Warrant under the Hands and Seals of such Justices, who are hereby required to grant such Warrant,

II G. 2. After the 24th of *June* 1738, the Treasurers of Counties within *England* and *Wales*, shall by the First Day of *Trinity* Term, yearly pay to the Lord Chief Justice of *England* and Knight Marshal, or such Person as they shall appoint, the several Sums due from their respective Counties, to be equally divided among the Prisoners of the *King's Bench* and *Marshalsea* Prisons,

sons, for the Purposes in the Act of the 43d of *Eliz.*

On their Refusal so to do, the Court of *King's Bench* upon the Report of the Chief Justice, &c. may make a Rule upon them, to be enforc'd as other Rules of the said Court.

The Treasurers shall within 30 Days after the 29th of *September* 1738, or within 30 Days after their Elections, transmit their Names and Places of Abode to the Clerk of the Crown of the *King's Bench*, to be by him registred, without Fee, and on Refusal the Court may proceed against them as on Non-payment of the Monies, and the whole Cost shall be paid by them on whom any Rule is made.

An ABSTRACT *of the* ACTS *of*
PARLIAMENT *relating to*
VAGRANTS.

39th *Eliz.* *Cap.* 17. *Señ.* 2.

ALL idle and wandring Soldiers or Mariners, or idle Persons which shall be wandring as Soldiers and Mariners, shall settle themselves in some Service, or other lawful Course without wandring, or repair to the Places where they were born, or to their dwelling Places, betaking themselves to some lawful Trade; upon Pain that all Persons offending shall be reputed as Felons, without Benefit of Clergy.

3. Every idle and wandring Soldier or Mariner, which coming from his Captain from the Seas, or from beyond the Seas, shall not have a Testimonial of some Justice of Peace, near the Place where he landed, setting down the Place and Time when he landed, and the Place of his
Dwellin

Dwelling or Birth, unto which he is to pass, and a convenient Time limited for his Passage, or having such Testimonial, shall wilfully exceed the Time above fourteen Days, every such idle and wandring Soldier or Mariner, as also every other idle Person wandring as Soldier or Mariner, which shall forge any such Testimonial, or have with him any such Testimonial forged, knowing the same to be forged, every such Act shall be Felony, without Benefit of Clergy.

4. It shall be lawful for the Justices of Assizes, Justices of Gaol-Delivery, and the Justices of Peace, having Authority to hear and determine Felonies, to hear and determine all such Offences in their General Sessions, and to execute the Offenders, except some honest Person, valued at the last Subsidy to 10*l.* in Goods, or 40*s.* in Lands, or else some honest Freeholder, as by the Justices shall be allowed, will be contented before such Justices, to take them into his Service for one Year, and will be bound by Recognizance of 10*l.*

to

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to the Queen, if he keep not the Person for one Year, and bring him to the next Sessions for the Peace and Gaol-Delivery after the Year. And if such Person depart within the Year without the Licence of him that retained him, then to be adjudged as a Felon, and not have Benefit of Clergy.

5. Provided, that if any such idle and wandring Person fall sick by the Way, so that he cannot travel within the Time limited in his Testimonial, no such to be within the Danger of this Statute, so as he settle himself in some lawful Course, within convenient Time after the Recovery of his Sickness.

6. When any such Soldier or Mariner shall repair to the Place of his Dwelling or Birth, according to the Testimonial, and cannot get Work upon Complaint made by such Soldier or Mariner to two Justices of the Peace, they shall take Order to set him to some honest Labour; and for Want of such Work the two Justices

stices shall tax the Hundred for the Relief of such.

7. If any such Soldier or Mariner shall resort to some Justice of Peace, and make known his Poverty, the Justice shall have Power to licence the Soldier or Mariner to pass the next Way to the Place where he is to repair, and to limit him so much Time as shall be necessary for his Travel thither; and he pursuing his Licence may for his necessary Relief, ask the Relief that any Person shall willingly give him.

8. This Act shall not work any Corruption of Blood in the Heirs of any Offender.

9. This Act shall continue to the End of the Parliament next ensuing. Continued indefinitely by 3 *Car. 1. cap. 4.* and 16 *Car. 1 cap. 4.*

7 *J. 1. c. 4. s. 2.* There shall be provided within every County one or more Houses of Correction, together with Mills, Turns,

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Turns, Cards, and such Implements to
set Rogues, or other idle Persons on
Work.

4. The Justices of Peace at their Quarter-Sessions shall elect one or more to be Governor or Master of the House so to be provided, which shall have Power to set such Rogues, Vagabonds, idle, and disorderly Persons as shall be sent to the House to work, and to punish the said Rogues, &c. by putting Fetters or Givies upon them, and by moderate Whipping; and the said Rogues, &c. during such Time as they shall continue in the House of Correction, shall not be chargeable to the Country, but shall have such Allowance as they shall deserve by their own Labour.

6. The Masters of the Houses of Correction shall have such Sums of Money yearly, as shall be thought meet by the Justices at the Quarter-Sessions, to be paid Quarterly beforehand by the Treasurers appointed by 43 *Eliz. cap. 2.* (the said Master giving Security for the Performance
of

of the Service) which if the Treasurer shall neglect, the Master shall have Authority to levy the same in such Manner as by the said Statute the Treasurers are appointed to levy the weekly Payment.

8. Wilful People having Children, and being able to labour, and running away out of their Parishes, shall be deemed incorrigible Rogues; and if such Man or Woman being able to work, shall threaten to run away and leave their Families, the same being proved by two Witnesses before two Justices of Peace, they shall be sent to the House of Correction, (unless they put in Sureties for the Discharge of the Parish) to be dealt with as a sturdy and wandering Rogue, and to be delivered at the Meeting or Quarter-Sessions.

9. If the Masters of the Houses of Correction shall not every Quarter-Sessions yield Account unto the Justices, of all Persons committed to their Custody, or if the Persons committed shall be trouble-
some

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some to the Country by going Abroad, or otherwise escape from the House of Correction, the Justices shall set Fines upon the Master, which shall be paid to the Treasurer.

Continued indefinitely by 3 *Car. 1. cap. 4.* and 16 *Car. 1. cap. 4.*

13, 14 *Car. 2. c. 12. s. 15.* In Case any Constable, Headborough, or Tithing-man shall die or go out of the Parish, any two Justices of Peace may make and swear a new Constable, &c. until the Lord of the Manor shall hold a Court, or until the next Quarter-Sessions, who shall approve of the said Officers, or appoint others. And if any Officer shall continue above a Year, the Quarter-Sessions may discharge him, and appoint another, until the Lord shall hold a Court.

23. It shall be lawful for the Justices of Peace in Quarter-Sessions to transport such Rogues, &c. as shall be convicted and adjudged to be incorrigible, to any of the *English Plantations*.

Made perpetual by 12 *Ann. ft. 1. cap.*
18. *Qu.* If this last Clause is in Force,
since the Repeal of 39 *Eliz. cap. 4.* by
12 *Ann. ft. 2. cap. 23.*

12 *A. c. 23. ft. 2. sect. 1.* Persons pretend-
ing to be Patent-Gatherers or Collectors for
Prisons or Hospitals, and wandering Abroad
for that Purpose, all Fencers, Bear-Wards,
common Players of Interludes, Minstrels,
Jugglers, all Persons pretending to be
Gipsies, or wandring in the Habit of coun-
terfeit *Egyptians*, or pretending to have
Skill in Physiognomy, Palmestry, or like
crafty Science, or pretending to tell For-
tunes, or like phantastical Imaginations;
or using any subtle Craft, or unlawful
Games, all Persons able in Body who run
away and leave their Wives or Chil-
dren to the Parish, and not having where-
with otherwise to maintain themselves,
use loitering, and refuse to work for the
usual Wages, and all other idle Per-
sons wandering abroad, and begging, (ex-
cept Soldiers or Sea-faring Men licensed
by Writing under the Hand and Seal of
some

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some Justice of Peace, setting down the Time and Place of their Landing, and the Place to which they are to pass, and limiting the Time for their Passage) shall be deemed Rogues and Vagabonds.

2. If any Person by this Act declared a Rogue or Vagabond, shall be found in any Parish or Place wandering and begging, or misordering himself, it shall be lawful for the Constable or other Officer of such Parish, or any other, there to apprehend the Person, and to convey him to some Justice of Peace for the County, &c. in or near the Parish; and in Case any Constable, &c. shall neglect to use his best Endeavours to apprehend such Rogue, it shall be deemed a Neglect of Duty; and in Case any other Inhabitant being charged by any Justice of Peace, or other lawful Authority, shall neglect to use his best Endeavour to apprehend and deliver to the Constable, or carry before some Justice of Peace, where no Officer shall be found, any such Rogue or Vagabond, who shall be known to resort to any House to

beg, and shall be thereof found guilty by the Oath of one Witness, before one Justice of Peace, he shall forfeit 10s. to be levied to the Use of the Poor of the Parish, by Distress and Sale of Goods, by Warrant from any Justice of Peace; and in Case any Person shall apprehend any such Rogue, and cause him to be brought before any Justice of Peace, it shall be lawful for such Justice to reward such Person, by ordering any Constable or other Officer where such Rogue was found begging, and passed unapprehended, to pay 2s. to the Person apprehending him, which Monies if the Constable, &c. delay to pay on Demand, it shall be lawful for such Justice by Warrant to levy 20s. by Distress and Sale of Goods, and thereout to allow to the Person apprehending such Rogue 2s. and such other Recompence for his Trouble and Expences as the Justice shall think fitting.

3. The Justices of Peace, or two of them, some Time before their Quarter Sessions, or oftner if Need be, shall meet

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in their Divisions, and by their Warrant command the Constables of every Hundred, &c. (who shall be assisted with sufficient Men of the Places) to make a general privy Search, in one Night through their several Limits, for the apprehending of Rogues, Vagabonds, and sturdy Beggars, and such as they shall find, they shall cause to be brought before any Justice of Peace.

4. Where any Persons apprehended by any Constable or Inhabitant, or upon such privy Search shall be brought before any Justice, he is required to examine by the Oath of the Persons apprehended, or by any other Ways, of the Condition of the Persons apprehended, and of their Place of Abode, or Birth; the Substance of which Examinations the Justice shall cause to be put down in Writing, and to be signed by the Persons examined, and transmitted to the next Quarter-Sessions, to be filed; and in Case it shall appear, that such Person hath obtained any legal Settlement, such Person shall be sent to the Place of his
last

last legal Settlement, as other Persons likely to become chargeable to the Parish; but if it cannot be found that such Person hath gained any legal Settlement since his Birth, such Justice shall by a Pass directed to the Constable, or Tithing-man of the Place where such Rogue was apprehended, and taking Notice where, and for what Cause such Person was apprehended, and whither, and in what Time he is to pass) to cause such Rogue of whatsoever Age, to be conveyed to the Place of his Birth, or if he or she be under fourteen Years, and have any Father or Mother living, to the Place of the Abode of such Father or Mother; but if the same cannot be known, then to the Parish where he was last found begging or misordering himself, and passed unapprehended, to be delivered to the Constable, &c. which Pass shall be to the Effect following.

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To the Constable of the Parish of
in the County of or to the
Tithingman, &c. as the Case shall be.

WHereas being, as he informs
about the Age of Years, was
apprehended in the Parish of
aforesaid (or in the Town of)
there wandering and begging (or there
pretending himself to be Collector for the
Prisons, &c. and wandring for that Pur-
pose, or there practising as a Fencer, &c.)
and brought before me one of her Majesty's
Justices of the Peace for this County,
and upon Examination of the said
and of taken before
me upon Oath, it doth appear that the said
was born at in
this County (or in the County of
or that the said is under the
Age of fourteen Years, and hath a Father
living and abiding in the Parish or Town
of or that the said was
found begging in the Parish of
where he last past through unapprehended,
and

in the Court of King's Bench. 357

and the Place of his or her Birth cannot be discovered) and it doth not appear to me that the said hath obtained any legal Settlement since his or her Birth: These are therefore to require you to convey the said in the next direct Way to the said Parish or Town of and there deliver him to the Constable or other Officer of the same Parish or Town, to be there provided for according to Law (or in Case the Place be out of the County, &c. then it shall be to convey the said to the Parish or Town of that being the first Town in the next Precinct through which he ought to pass, to the said Parish or Town of to be thence conveyed on according to the Directions of this Act to the said Parish or Town of) And I do hereby allow the Space of Days for his or her passing to the said Parish or Town of Given under my Hand and Seal this &c.

A a 3

5. If

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5. If any Person who hath obtained a legal Settlement be found wandring and begging and misordering himself as aforesaid, he, as well as any other Person apprehended as a Rogue or Vagabond, may by such Justice of Peace, before his being sent by such Pass, if the Justice think proper, be ordered to be stript naked from the Middle, and openly whipped, until his or her Body be bloody, or may be sent to the House of Correction, to be kept at hard Labour according to the Offence, and shall afterwards be sent away by Order or Pass, which Punishment of Whipping, or conveying to the House of Correction, the Constable or other Officer authorized by the Justice, shall see duly executed.

6. All Persons apprehended upon a general Privy Search, who shall appear to have committed Acts of Vagrancy, and to have no fix'd Abode or Employment in the Place where they shall be apprehended, although they may have acquired a legal Settlement, yet the Charges

ges of conveying such Person shall be defrayed in the same Manner as the Charge of conveying other Rogues sent to the Place of their Birth by this Act, and in Case such Justice of Peace upon Examination, shall see Cause to judge any Rogue or Vagabond to be dangerous, and unlikely to be reformed, he may cause such Rogue to be committed to the House of Correction, or to the common Gaol, to be kept at hard Labour, until the next Quarter-Sessions; and if the Justices at such Quarter-Sessions shall adjudge such Person to be a dangerous and incorrigible Rogue, they shall cause him to be publickly whipt three Market-Days successively at some Market-Town near, and afterwards kept to hard Labour in the House of Correction or common Gaol such Time as they shall think meet; and in Case any Rogue so committed, shall, before the Time is expired, break out and make his Escape, he shall be guilty of Felony, the said Felony to be heard and determined in the County where such Offender shall be apprehended.

7. Where any Person shall be brought before any Justice of Peace as a Rogue or Vagabond, such Justice shall not make a Pass for the conveying such Person to the Place of his Birth, before Examination taken of the Case, nor afterwards, if it shall appear that such Person hath any legal Settlement, on Pain of 5*l.* to be recovered by any Person who will sue in any of her Majesty's Courts at *Westminster*, besides Costs.

8. If any Person apprehended as a Rogue or Vagabond, shall refuse to be examined upon Oath before such Justice, touching the true Place of his Birth or Settlement, or shall knowingly give any false or unsatisfactory Account thereof, such Person being detected of such Falsity, before any Justice of Peace, in a summary Way, shall be deemed a dangerous and incorrigible Rogue, and may be punished as such, of which Punishment the Justice shall cause the Person to be informed during his Examination,

9. The

9. The Justice of Peace who shall make any Pass for the conveying of any Rogue or Vagabond to the Place of his Birth, or the Abode of his Father or Mother, or the Place where such Rogue, &c. last begged or misordered himself, and passed unapprehended, shall at the same Time cause to be delivered to the Officer appointed to convey him, a Note, ascertaining how he is to be conveyed, by Horse, Cart, or on Foot, and whither, and in what Time, and what Allowance such Officer is to have, to the Effect following, *viz.*

Whereas by a Pass (reciting the Substance of the Pass) I do hereby order and direct that the said Person or Persons is or are to be conveyed on Foot, (or in a Cart, or by Horse, &c.) to the said Parish or Town of _____ *in*
_____ *Days Time, for which the*
said Constable, &c. is to be allowed the
Sum of _____ *and no more. Given*
under my Hand this _____ *Day, &c.*

10. The

10. The Officer who shall receive such Passs, shall cause to be conveyed the Persons named in such Passs, as by the Passs shall be directed, the next Way, if such Place be in the same County or Franchise, or if it be not in the same County, &c. then to the first Town of the County, &c. named in such Passs, thro' which such Persons are to be conveyed, and there deliver them to the Constable or other Officer of the Place, together with the Passs, taking a Receipt of such Delivery upon the Certificate, and the Officer to whom such Persons shall be delivered, shall, with all convenient Speed, apply to some Justice of Peace of his County, who shall cause such Vagabonds to be stript naked from the Middle, and to be openly whipt, or otherwise sent to the House of Correction, and there kept at hard Labour for two or three Days, and afterwards to be thence conveyed with the former Passs, and with a new Certificate; and so it shall be done from one County or Precinct to another, until the

Persons

Persons be brought to the Place whither they were ordered to be sent.

11. Provided that no Constable, &c. shall be obliged to receive any Persons by Pass, unless it appear by the Pass that the Persons have been whipped or sent to the House of Correction in the County, City, or Town Corporate thro' which they last passed, (except Women great with Child, Soldiers wanting Subsistence, having Certificates from their Officers, or the Secretary at War, or such as the Justices shall judge not able to undergo such Punishment) which shall be certified in the Pass.

12. The Justices shall at their Quarter-Sessions, from Time to Time appoint what Rates *per* Mile or otherwise shall be made for the passing of Vagrants, and may likewise make other Orders for the more regular Proceeding therein.

13. The Justices at such Quarter-Sessions, may by such Ways, as Monies for County-

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County-Gaols or Bridges may be raised, cause Sums to be raised for the passing or maintaing of Rogues, which Monies shall be quarterly paid to the chief Constables, in such Manner as that such chief Constables may have a quarterly Payment in their Hands beforehand, and the chief Constables shall twice a Year, or oftner, as the Justices shall direct, account for the same with the Treasurers of their County, &c.

14. In Case any petty Constable or other Officer of any Parish, &c. shall bring to any chief Constable such Certificate as aforesaid, with a Receipt from the Officer to whom the Persons conveyed were delivered, the chief Constable shall pay unto such Officer the Allowances ascertained in such Certificate, taking from such Officer such Certificate and his Receipt.

15. In Case such petty Constable, &c. shall counterfeit any such Certificate or Receipt, or alter any Sums mentioned in such

such Certificate, or shall not cause to be conveyed the Persons thereby intended, he shall forfeit 20*l.* one Moiety to the Poor of the Parish, the other Moiety to the Informer, to be levied by Distress and Sale of Goods, by Warrant from any Justice of Peace.

16. It shall be lawful for any Justice of Peace to examine any Constable or other Officer upon Oath, whether he did convey the Persons ordered, and to whom he delivered such Persons, and in Case such Constable, &c. shall refuse to be sworn, or it shall appear he hath neglected his Duty, he shall lose the Allowance.

17. The Parish, to which any Rogue shall be conveyed by Pass, shall take Care to employ in Work, or to place in some Work-house or Alms-house the Person conveyed, until he betake himself to some Service or Employment; and in Case such Person shall refuse to work, the Overseers of the Poor, or one of them, may cause such Person to be carried

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ried before some Justice of Peace, in order to be sent to the House of Correction, to be kept at hard Labour; and in Case any Parish shall not take Care to employ, but shall voluntarily permit any such Person conveyed to them by Pass, to escape, or wander about again, and the Person shall be taken up again wandring and begging, or misordering himself in any other Parish, it shall be lawful for any Justice of the County where such Rogue shall be again apprehended, to compute what Charge the County shall be put to by the apprehending, punishing, or passing such Rogue; and the Money so computed, the Justice shall by Warrant order to be levied upon any of the Constables, Church-wardens, or Overseers of the Poor, so in Default by Distress and Sale of Goods; or in Case such Parish in Default be in another County, the Warrant ascertaining such Charge may be brought to some Justice of Peace of the County, who shall cause the same to be levied, and the Money shall be paid for the Benefit of the County where
such

such Charge was expended; and the Officer upon whom the Monies shall be levied, may put the same in his Rates; and the Justice of the Place whither such Rogue shall be conveyed by Pass, may at their Quarter-Sessions, to which such Pass is to be transmitted, inquire of the Neglect of any Officer, or other Person of any Parish, to which any Rogue shall be brought, in permitting his Escape, and may punish the Person offending; and in case any Person shall be found again wandering and begging, or misordering himself, it shall be lawful for any Justice of Peace, upon Proof thereof, to send such Person to the House of Correction, to be kept to hard Labour, till the next Quarter-Sessions; and in Case such Persons shall not then give Security for their good Behaviour for one Year, the Justices may adjudge them to be dangerous and incorrigible Rogues.

18. In Case any Person apprehended and brought before any Justice of Peace as aforesaid, shall, upon Examination, be found

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found by Confession, or by Oath of one Witness, to have obtained no legal Settlement since his Birth, and to have committed any Acts of Vagrancy, or to have used the Trade of a common Beggar or Vagabond for two Years last past, altho he had formerly a Settlement, or to be a dangerous and incorrigible Rogue within this Law; it shall be lawful for such Justice, instead of punishing or passing him away by Order, to commit the Person to the Custody of them, who procured such Apprehension, or in Case of their Refusal, to the Custody of any other Person willing to receive him, as their Apprentice or Servant for Seven Years; and the Person to whose Custody he shall be so committed, may detain and set to work, either within *Great Britain*, or in any of her Majesty's Plantations, or any *British* Factory beyond the Seas, the Person so committed, during the seven Years.

19. Provided that no such Person shall be transported beyond the Seas, until his Master shall become bound by Recogni-

zance in Forty Pounds, with Condition that the Person so to be transported shall be employed in some of her Majesty's Plantations, or in some *British* Factories, and there supplied with Necessaries, and at the End of the Seven Years, or sooner, be set at Liberty, and in the mean Time not be sold to any Alien; which Recognizance any Justices of Peace are enabled to take, and shall transmit the same to the next Quarter-Sessions to be filed.

20. Any Person aggrieved by such Order of any Justice of Peace, may appeal to the next Quarter-Sessions, and shall not be sent away or committed till such Quarter-Sessions, whose Determination shall be final, but may in the mean Time be kept in the House of Correction; if such Justice shall think it necessary.

21. Where many loose, idle and disorderly Persons, blind, lame, or pretending to be so, or with distorted Limbs, or pretending some bodily Infirmary, shall

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be found begging in Streets, Highways, or Passages in *England*, Complaint being made by two Inhabitants of the Parish to the Constable, or in his Absence to the Headborough or Tithingman, such Constable, &c. shall with all convenient Speed, cause the Person to be removed, and in Case he shall refuse to be removed, or shall offend a second Time, such Constable, &c. shall cause such Person to be stripped naked from the Shoulders to the Waste, and whipped till his Body is bloody; and if such Constable, &c. shall neglect to cause the same to be done, Oath of such Neglect being within Twenty-four Hours made by two Witnesses, before one Justice of Peace, such Constable, &c. shall forfeit 10s. to the Poor of the Parish, to be by Warrant of such Justice, levied by Distress and Sale of Goods.

22. Where Persons of little or no Estates, by Lunacy, or otherwise, are furiously mad, and dangerous to be permitted
to

to go Abroad, it shall be lawful for two Justices of the Peace of any County, &c. in *England*, where such mad Person shall be found, by Warrant directed to the Constables, Church-wardens, and Overseers of the Poor of such Parish, &c. to cause such Person to be apprehended and kept safely lock'd up, in such secure Place within the County, as such Justices shall direct, and (if such Justices find it necessary) to be there chained, if the last legal Settlement of such Person shall be in any Place within such County; and if such Settlement shall not be there, such Person shall be sent to the Place of his last legal Settlement, as Vagrants are to be sent (Whipping excepted) and shall be kept safely lock'd up, or chained, and the Charges of keeping such Person during such Restraint (which shall be for such Time only as such Madness shall continue) shall be paid by Order of two Justices for the County, &c. where such Settlement shall be, out of the Estate of such Person, if such Person hath an Estate, over and above what shall be suf-

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ficient to maintain his Wife and Children; and if he hath not such Estate, then by such Ways as the Poor are to be provided for.

23. This Act shall not abridge the Prerogative of the Queen, or the Power of the Lord Chancellor, or of the Chancellor of the County Palatine of *Lancaster*, or of the Chamberlain of the County Palatine of *Chester*, touching the Premises.

24. In Case the Master of any Ship shall bring into this Realm from *Ireland*, the *Isle of Man*, *Jersey*, *Guernsey*, *Scilly*, or any of the foreign Plantations, any Rogue, Vagabond, or Beggar, or any Person likely to live by begging, being a Native of any the said Islands or Plantations, and the Person so brought over shall be apprehended wandring and begging, or otherwise misordering himself as aforesaid, such Master, &c. shall forfeit five Pounds for every Rogue, &c. over and above such Money as shall be necessary to defray the
the

the Charges that any Constable shall be put to, by Means of apprehending and re-conveying the Person; and the Constable or other Officer of any Parish, where any Person so brought over shall be found wandring and begging, or misordering himself, may cause him to be apprehended and openly whipped, and after put on Board any Ship, to be set on Shore in the Place from whence he was brought, paying for the Passage back of such Person such Rate as the Justices at their Quarter-Sessions shall appoint; and in Case such Constable, &c. shall, upon Oath, make appear before any Justice of Peace, what Expence he hath been put to, upon such Occasion, it shall be lawful for such Justice by Order to direct the Payment of the Money so expended, as also of the Penalty of five Pounds; and in Case such Master, &c. of the Ship, shall neglect to pay the Monies upon Demand, it shall be lawful for such Justice, by Warrant, to levy the same, by Distress and Sale of the Ship, or any Goods within the same, while remaining within the Jurisdiction

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of such Justice; and if the Master, or the Ship, shall be gone out of the Jurisdiction, &c. the said Order of the Justice may be removed by *Certiorari* into the *Queen's Bench*, and being filed, the Judges are required to direct Process for arresting the Ship, and detaining the same, until the Monies mentioned in such Order, together with the Charges of such Process, be satisfied, or otherwise to award Process for levying the Money by *Capias*, *Fieri Facias*, or *Elegit*, against the Master or Owners of the Ship, as the Court shall think proper.

25. Provided that in Case such Master, or Owners shall in the said Court shew any probable Ground of Grievance by the said Order, they may be admitted to traverse the same, giving Security in the Penalty of fifty Pounds, to answer the Costs of such Traverse, in Case it be determined against them.

26. All Masters of Ships bound for *Ireland*, the *Isles of Man, Jersey, Guernsey*,
or

or *Scilly*, shall upon Warrant to them directed, of a Justice of Peace of the County, &c. where such Ship shall lie, take on Board such Vagrants as shall be named in the Warrant, and convey them to such Place in *Ireland*, the Isle of *Man*, *Jersey*, *Guernsey*, or *Scilly*, as such Ship shall be bound to, or arrive at, and for the Charges thereof, the Constable, or the Person who serves him with the Warrant, shall pay him such Rate as the Quarter-Sessions shall appoint; and such Master shall on the Back of the Warrant sign a Receipt for the Money, and also for the Vagrants, which Warrant shall be produced to the Justice who signed the same, and upon his Allowance thereof under his Hand, the Money shall be repaid by the County; and every Master of such Ship neglecting to receive or transport such Vagrants, or to indorse such Receipt, shall forfeit five Pounds to the Use of the Poor of the Parish, to be levied by Distress or Sale of the Ship, or any Goods within the same, by Warrant of any Justice of Peace for the same County, &c.

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27. In Case any Constable, &c. shall fail of his Duty in the apprehending, punishing, or conveying of Rogues, or shall be otherwise defective in his Duty, or in Case any Person shall hinder the Execution of this Act, or shall rescue any Person apprehended, or be assisting to his Escape, and shall be thereof convicted, either upon the View of a Justice of Peace, or the Oath of one Witness, he shall forfeit Twenty Shillings, to the Use of the Poor of the Parish, to be levied by Distress and Sale of Goods, by Warrant from one Justice of Peace,

28. This Act shall not prejudice the Heirs or Assigns of *John Dutton* of *Dutton*, late of the County of *Chester*, Esq; concerning any Liberty which they lawfully may use within the County Palatine of *Chester*, and the County of the City of *Chester*.

6 G. 1. c. 19. s. 2. The Justices of Peace may commit Vagrants, and other criminal Persons charged with small Offences, either to the common Gaol, or
House

House of Correction, as they shall think proper.

The better to enforce and reduce these Laws into one, it is by the 3 Geo. 2. c. 24. enacted, That Persons threatening to leave their Wives and Children to the Parish, returning to a Parish from which they have been legally removed without a Certificate from the Place or Parish to which they belong, living idly and refusing to work for common Wages, or begging from Door to Door, or placing themselves in Streets, &c. to beg Alms in the Parish where they dwell, shall be deemed idle and disorderly Persons, and any Justice of the Peace may commit them to the House of Correction, to be kept to hard Labour, not exceeding one Month. Any Person may apprehend and take before a Justice, People going from Door to Door, or placing themselves in Streets, &c. to beg in Places where they dwell, and if they resist, or escape, they shall be subject to Punishment by this Act as Rogues and Vagabonds, and 5*s.* for every

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every Offender so apprehended, shall be paid by the Overseer, and allowed him in his Account ; but if the Overseer refuse to pay the said Sum, it may be levied (by Justices Warrant) by Distress and Sale of his Goods, and he shall not be allowed the same in his Account.

2. All Patent-Gatherers, or Gatherers of Alms. under false Pretences of Loss by Fire, &c. Collectors for Prisons, or Hospitals, Fencers and Bear-wards, Players of Interludes, &c. (having no legal Settlement at the Place where they act) without Letters Patent (as by Act made 10 Geo. 2. intituled, *An Act to explain and amend so much of an Act made in the Twelfth Year of Queen Anne, intituled, An Act for reducing the Laws relating to Rogues, &c.*) or without Licence from the Lord Chamberlain, all Minstrels, Juglers, Gypsies, Pretenders to Physiognomy, Palmestry, or the like Fortune-tellers, or Persons playing at unlawful Games, Persons run away from their Wives and Children, whereby they become

come chargeable to the Parish, all petty Chapmen, or Pedlars, without Licence, or other Authority, all Wanderers lodging in Barns or Out-houses, or pretending to be Soldiers, Mariners, or Sea-faring Men, or pretending to go to work in Harvest, and all wandring Beggars shall be deemed Rogues and Vagabonds.

3. This Act shall not extend to Soldiers wanting Subsistence, having Certificates from their Officers, or the Secretary at War, or Mariners, or Sea-faring Men licensed by some Justice of Peace, setting down their Time and Place of landing, or Discharge, whither going, and limiting the Time of their Passage, and keeping in the direct Way to the Place whither they are going, or to any Persons going with Certificates Abroad, to work at Harvest or otherwise.

4. All End-gatherers offending against the Act 13 Geo. 1st, intituled, *An Act for the better regulating of the Woollen Manufacture, &c.* All Persons apprehended as Vagabonds,

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Vagabonds, and escaping or refusing to go before a Justice, or giving a false Account of themselves after Warning of their Punishment, all Persons breaking Prison before the Expiration of the Term, or having been punished and discharged, commit a second Offence, shall be deemed incorrigible Rogues.

5. Vagabonds as above described, may be apprehended by any Parish Officer, or other Person dwelling near where the Offence is committed, to be conveyed before a Justice; and if any Officer refuse to use his best Endeavours to take such Offenders, he shall be punished as after directed; and if any other Person being charged by any Justice so to do, shall refuse to apprehend and deliver such Offender to the Constable, &c. or to carry the same before a Justice, if an Officer cannot be found, being convicted on Oath, shall forfeit for every Offence 10 s. to be levied by Distress and Sale, and applyed to the Use of the Poor; and if any such Inhabitant (not being an Officer) shall apprehend

hend such Offenders, and deliver him or her to an Officer, or cause him or her to be conveyed to some Justice, as directed by this Act, the said Justice may make an Order in Writing upon such Constable, &c. where the Offender shall be apprehended, to pay 10s. to the Person who apprehended the Offender, within a Week after Demand, producing such Order, and giving his Receipt, which Money shall be repaid by the High Constable, who shall be allowed the same in his Account by the Treasurer of the County, Riding, or Division, and the Justices at General or Quarter-Sessions shall allow it in the Treasurer's Accounts; and in Places where there are no High Constables, the petty Constables and other Officers shall be allowed in their Accounts what they shall so pay by Virtue of this Act; and if any petty Constable, or other Officer, shall refuse to pay the 10s. as aforesaid, then any such Justice may by Warrant levy 20s. by Distress and Sale of such Officer's Goods, 10s. to be paid to the Person intitled to the same, and such other Recompence for
his

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his Trouble, Loss of Time, and Expences, as the said Justice shall think fit, and the Overplus (if any) to be returned to such petty Constable, &c. on Demand; and if such petty Constable, or other Officer, shall pay the said 10s. to the Person intituled, and the High Constable shall refuse to pay him again, then the Sum of 20s. shall be levied on his Goods, to be disposed of to the petty Constable, &c. in Manner as is just before directed.

6. The Justices for every County, &c. or any two, shall meet four Times in the Year (or oftner if need be) in their respective Divisions, and by Warrant command the Constables, or other Officers, with proper Assistance, to make a general privy Search in one Night, throughout their severall Limits, for apprehending of Vagabonds, which shall be brought before any Justice of the same County, Riding, &c.

7. Whenever Vagabonds are apprehended, they shall be taken before a Justice,

stice, and examined on Oath, or by the Oath of any other Person, of the Circumstances of the Persons so apprehended, and the Parish to which they belong, which Examinations shall be written and signed by the Justice, and the Persons examined and transmitted to the next General or Quarter-Sessions, to be filed on Record; and if any legal Settlement is made appear, the Justice shall pass them thither, taking Notice of their Age, and the Reason of their being apprehended; but if no legal Settlement can be found, then they shall be conveyed to the Place of their Birth, if under fourteen Years of Age, and have a Father or Mother living, then to the Place of their Abode; and if the Place of Birth, or Parents Abode cannot be known, then to the Parish or Place where they were last found begging, and passed unapprehended, there to be delivered to some Officer of such Parish or Place. The Form of the Pass shall be as follows:

To

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To the Constable of the Parish of
in the County of
or to the Tithingman, or other Of-
ficer (*as the Case shall be*) and also
to the Governor or Master of the
House of Correction at
within the said County; and likewise
to all Governors or Masters of all
Houses of Correction whom it may
concern, to receive and convey, and
to the Church-wardens, Chapel-war-
dens or Overseers of the Poor of the
Parish, Place, or Precinct (*as the
Case shall be*) of in the
County of or either of
them, to receive and obey.

WHereas was or were
apprehended in the Parish of
or in the Town of or other Place
(describing it) as a Rogue and Vagabond,
or as Rogues and Vagabonds, and brought
before me, or us, one, two, or more of his
Majesty's Justices of the Peace for this
County, Riding, City, Borough, Town
2 Corporate,

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Corporate, Division, or Liberty, and upon Examination of the said taken before me (or us) upon Oath, it doth appear that he, she, or they is a Rogue, and Vagabond, or are Rogues and Vagabonds, within the true Intent and Meaning of the Statute in that Case made and provided, and that his, her, or their last legal Settlement is at in this County, or the County of or that the said was or were born in the Parish of in this County, or in the County of and hath not since obtained any legal Settlement, or that the said is or are under the Age of fourteen Years, and hath or have a Father or Mother living or abiding in the Parish or Town of or other Place (describing it) or that the said was or were last found begging or misordering himself herself, or themselves, in the Parish or Town of or other Place (describing it) and passed thro' the same unapprehended, and the Place of his, her, or their legal Settlement, Birth, or Pa-

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rents Abode cannot be discovered: These are therefore to require you the said Constable, or other Officer (as the Case shall be) to convey the said in the next direct Way to the said Parish or Town of or other Place within the said County, or next adjacent County, (as the Case shall happen, describing it) and there to deliver him, her, or them to some Church-warden, Chapel-warden, or Overseer of the Poor of the same Parish, Town, or Place, to be there provided for according to Law: And you the said Church-wardens, Chapel-wardens, and Overseers of the Poor are hereby required to receive the said Person or Persons, and provide for him, her, or them as aforesaid, or in Case the said Place be not within the same or next adjacent County, Riding, City, Borough, Town Corporate, Division, or Liberty, then to convey the said to the House of Correction at in the said County or Place; and you the said Governor or Master of the said House of Correction to receive the said

into

in the Court of King's Bench. 387

into your Custody, and him, her, or them to convey or cause to be conveyed to the first House of Correction in the next County or Place in the direct Way to the said Parish or Town of or other Place (describing it) and in like Manner every other Governor or Master of every House of Correction to whom it may belong, to convey the said from House of Correction to House of Correction, until he, she, or they shall arrive at the House of Correction belonging to the County, Riding, City, Borough, Town Corporate, Division, or Liberty, to which the said Parish, Town, or Place doth belong, and the Master or Governor of the said House of Correction, to convey and deliver, or cause to be conveyed and delivered the said

to some Church-warden, Chapel-warden, or Overseer of the Poor of the said Parish, or Town of or other Place (describing it) to be there provided for according to Law ; and you the said Church-wardens, Chapel-wardens, and Overseers of the Poor are hereby required to receive the said Person or Persons, and

C c 2

provide

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provide for him, her, or them, as afore-
said.

8. The Justice shall sign a Duplicate of such Pass, and transmit it to the next General or Quarter-Sessions, there to be filed on Record; and the said Duplicate, or a Copy thereof, may be read as Evidence in any Court of Record.

9. Any Persons herein before described to be Vagabonds, being apprehended, the Justice before whom they are brought, may commit them to the House of Correction, till the next General or Quarter-Sessions, or any less Time, as he shall think fit, according to the Nature of the Offence, and then pass them away as aforesaid.

10. Where any incorrigible Rogue, as before described, be taken before a Justice, he may be sent to the House of Correction, and kept to hard Labour till the next General or Quarter-Sessions; and if the Justices in General or Quarter-Sessions

sions assembled, shall adjudge the Person so committed to the House of Correction, to be an incorrigible Rogue, they may order him to be detained for any Time not exceeding Six Months, to be kept to hard Labour, and corrected by Whipping, in such Manner, Times, and Places within their Jurisdiction, as they shall think fit; and the said Offender shall be afterwards passed away as before directed; and if such Offender shall break Prison, or make his Escape, before the Time of his Confinement be expired, and being duly convicted, he shall be judged guilty of Felony, and be transported for any Time not exceeding Seven Years, according to an Act made 4 Geo. 1. intituled, *An Act for the further preventing Robbery, Burglary, and other Felonies, and for the more effectual Transportation of Felons, &c.* and by another Act made 6 Geo. 1. intituled, *An Act for the further preventing Robbery, Burglary, and other Felonies, and for the more effectual Transportation of Felons;* And if any Offender to be transported shall escape before Transportation, or return

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from Transportation before his Time shall be expired (being convicted thereof) shall be guilty of Felony, and suffer Death without Benefit of Clergy.

11. If any Offender being deemed an incorrigible Rogue, and sent to any Parish or Place, shall afterwards be found begging or misordering himself in another Place, such Offender may be committed to the House of Correction, to hard Labour for three Months, and be publicly whipped in such Manner, and as often as such Justice shall think fit, and afterwards be passed to the Place to which he was first sent.

12. The Justice who shall make any Pass, shall at the same Time give the Constable, or other Officer, a Certificate ascertaining how they are to be conveyed, and whither, and what Recompence such Constable, &c. is to have, as follows.

Whereas

Whereas by a Pass (reciting the Substance or Effect of the said Pass) I (or we) do hereby order and direct the said Person or Persons to be conveyed on Foot (or in a Cart, or by Horse, &c.) to the said Parish or Town of _____ in _____ or other Place (describing it) or to the House of Correction, at _____ in the Way to such Parish, Town, or Place (as the Case shall be) in _____ Days Time, for which the said Constable; &c. is to be allowed the Sum of _____ and no more. Given under my Hand (or our Hands) this _____ Day, &c.

13. The Constable, or other Officer, having such Pass and Certificate, shall convey the Persons named therein in such Manner and Time as the Pass shall direct, the nearest Way to the Place where they are ordered to be sent, if such Place shall be in the same County, Riding, or Division, where the Persons were apprehended, or next adjoining thereto; but if the Place lies in some distant County,

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Or, the Constable, or other Officer, shall deliver them to the Governor or Master of the next House of Correction where they dwell, together with the Pass and Certificate, taking his Receipt for the same; and the said Master of such House of Correction, is required to receive them, and give a Receipt, and convey them forward with all convenient Speed, and deliver them with the Pass to the Master of some House of Correction in the next County, &c. that lies nearest in the Way to the Place where such Persons are to be sent, who is hereby obliged to receive them and give a Receipt, and shall without Delay apply to some Justice in the same County, &c. who shall make the like Certificate as before (*mutatis mutandis*) and deliver it to the Master of the last House of Correction, who shall convey the Persons named in the Pass, together with the former Pass, unto the House of Correction in the next County, &c. in the Way to the Place where such Persons are to be conveyed, and so in like Manner from the House of Correction

rection in one County to the House of Correction in another, till they come to some House of Correction in the County, &c. wherein the Place is where they are to be sent, there to be kept to hard Labour, not exceeding one Month, and then such Persons shall be conveyed to such Place, and delivered to some Parish Officer, who is required to receive them and the Pass, and provide for them accordingly, and give the like Receipt on their Delivery.

14. All Constables, and other Officers within the Counties of *Cumberland, Northumberland, Durham, or Town of Berwick upon Tweed*, and all Masters of Houses of Correction, within the said Counties or Town, shall (upon any Persons being delivered to them by Pass, apprehended within the said Counties or Town, or brought to them according to the Direction of this Act, whose Settlement is in *Scotland*) convey such Persons to the next adjoining Shire, Stewarty, or Place, in that Part of the united Kingdom,
and

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and deliver them to any Officer of the next Parish, District, or Place within the said Shire, Stewarty, or Place, taking his Receipt, and such Officer is to receive such Persons, give such Receipt, and dispose of them according to Law.

15. Any Justice of Peace in *Scotland*, next adjoining to the Counties of *Cumberland*, *Northumberland*, *Durham*, or Town of *Berwick* upon *Tweed*, may cause any Constable or other Officer to convey any Persons apprehended within their Jurisdictions, or brought to them from that Part of the united Kingdom, as Vagabonds, &c. whose Place of Settlement shall appear to be in *England*, to the first House of Correction in the said Counties or Town, and deliver them to the Master of the said Work-house, taking his Receipt, who is required to receive such Persons, give such Receipt, and apply to some Justice in the same County or Town, who shall cause such Persons to be conveyed to the Place of their legal Settlement (if within the said Counties or Town)

or

or else to be conveyed to the House of Correction in the next County, in the most direct Way to the Place of their legal Settlement.

16. In Case any Master of a Vessel shall bring into this Realm from *Ireland*, the *Isle of Man*, the *Isles of Jersey*, *Guernsey*, or *Scilly*, or any of the foreign Plantations, any Vagabond, or Person likely to live by begging, being a Native of any of the said Islands or Plantations, and they shall be apprehended wandring and begging, such Master shall forfeit 5*l.* for every Vagabond so brought over, besides the Charges of apprehending and reconveying them back; and any Officer where such Persons shall be found wandring and begging, may cause them to be apprehended, and openly whipped and put on Board any Vessel to be reconveyed to the same Island or Place from whence they were brought, paying such Rate *per* Head for their Passage back, as the Justices at their Quarter-Sessions shall appoint; and if such Constable or other Officer

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Officer shall make appear upon Oath, before a Justice of the same County or Place, what Expence he has been at, the Justice shall direct Payment of the Money, and the Penalty of 5*l.* and if the Master refuse to pay the same on Demand, the Justice by Warrant shall levy the same by Distress and Sale of the said Vessel, or any of the Goods therein, while within the Jurisdiction of such Justice; and if the said Master or the Vessel be gone out of the said Justices Jurisdiction, the said Order may be removed by *Certiorari* into the *King's Bench*, and there filed; and the Judges of the said Court shall direct Process for arresting the said Vessel, till the Money mentioned in such Order, and the Charges of such Process be fully satisfied, or otherwise to award Process for levying the same by *Capias*, *Fieri facias*, or *Elegit*, against the Master or Owners of the said Vessel, as the Court shall think proper.

But if the Master or Owners of the said Vessel shall shew in the said Court

any

any

any Ground of Grievance by the said Order, they may be permitted to traverse the same, giving Security in the Penalty of 50*l.* to answer the Charges of such Traverse, if it be determin'd against them.

18. All Masters of Ships bound for *Ireland, the Isle of Man, Jersey, Guernsey, or Scilly*, shall, on Warrant of a Justice of the County, Town, or Place, where such Ship shall lie, take on Board such Vagrants as shall be named in the Warrant, and convey them to such Place in *Ireland, the Isle of Man, Jersey, Guernsey, or Scilly* as such Ship shall be bound to, or arrive at, and the Person who serves him with the Warrant shall pay him such Rate *per Head*, as the Justices at their Quarter-Sessions shall appoint, for every Vagrant delivered to him, and the Master shall sign a Receipt on the Back of the Warrant for the Money so paid, and the Vagrants so delivered, which Warrant shall be returned to the Justice who sign'd it, and upon his Allowance thereof

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thereof under his Hand, the Money shall be repaid by the County in the Manner as this Act directs, for passing Vagrants from County to County; and every Master of a Ship, refusing to receive on Board, or to transport such Vagrants, or sign such Receipt as aforesaid, shall forfeit 5*l.* to the Use of the Poor, to be levied by Distress and Sale of the said Ship or Goods, by Warrant of any Justice of the County, City, or Town Corporate, returning the Overplus on Demand, after deducting the Penalty and Charges.

19. The Justices of Peace of any County, &c. at the General or Quarter-Sessions, shall direct what Rates *per* Mile, or otherwise, shall be made for passing Vagabonds, and also make such Orders for the more regular acting therein within their Limits, as they shall think proper, and all Persons within the said Limits are to give due Obedience to the same.

20. If

20. If any petty Constable, or other Officer, bring to the High Constable, a Certificate given him by a Justice, ascertaining how and for what Rates he shall be required to convey Vagabonds as aforesaid, with a Receipt from the Churchwarden, Overseer of the Poor, or Master of any House of Correction, to whom the Persons so to be conveyed were deliver'd, the High Constable shall pay the Rates so certified, and no more, taking the Certificate and a Receipt, and the High Constable shall be allowed the same in his Accounts by the Treasurer of the County, &c. delivering up the Certificate and Receipt, and giving his own Receipt to the Treasurer, and the Justices at their General or Quarter-Sessions shall allow the same to the Treasurer in his Accounts, on his producing the Vouchers aforesaid; and if any High Constable shall refuse to pay the petty Constable the Rates aforesaid on Demand, any Justice may by Warrant levy double the Sum on his Goods, by Distress and Sale, and thereout allow the

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said petty Constable the Sum so certified, and other Expences and Loss of Time as the said Justice shall think fit, returning the Overplus on Demand ; and in such Places where there is no High Constable, the petty Constable or other Officer shall be allowed what they shall so pay in their respective Accounts, on producing their Vouchers.

21. The Treasurer of the County, &c. shall pay out of the public Money in his Hands, to the Master of the House of Correction within the said County, &c. all his Expences in passing Vagabonds, the said Master producing the Certificate, with a Receipt from the Master of the House of Correction, or the Church-warden or Overseer to whom such Persons are delivered, and giving his own Receipt for the same, and the Justices in General or Quarter Sessions shall allow the same to the Treasurer, on producing his Vouchers.

22. If any petty Constable, or other Officer, or Master of any House of Correction,

counterfeit any Certificate, Receipt, or Note, or permit any Alteration in the same, he shall forfeit 50*l.* And if they do not convey the Persons to the Place where they ought to be conveyed, or shall refuse to receive any Persons sent to them, or give a Receipt as directed, in every such Case they shall forfeit the Sum of 20*l.* to be levied by Distress and Sale of the Offender's Goods, by Warrant of the Justices at their General or Quarter-Sessions, one Half to the Informer, and the other to the Treasurer, to be made Part of the public Stock ; the Overplus to be returned on Demand.

23. The Place where such Vagabonds shall be passed to, shall employ them in some Work-house or Alms-house, till they betake themselves to some Employment, and if they refuse to work or betake themselves to some Employment, the Parish Officers may take them before a Justice, to be sent to the House of Correction to hard Labour.

24. Lunaticks shall be apprehended by Warrant of two or more Justices, and lock'd up in some secure Place, or chained if Occasion be, if the last legal Settlement of such Lunaticks be within the County; but if such Settlement be not there, then the Lunaticks shall be passed to their last Settlement, there to be lock'd up or chained as aforesaid; and the Charges of maintaining such Lunaticks shall be paid out of their Estates, if they have any over and above what shall be sufficient to maintain their Families (if any) and if they have no Estate, they shall be provided for as other Poor are, by the Laws in Being.

25. This Act shall not extend to abridge the Prerogative of the King, or the Authority of the Lord Chancellor, Lord Keeper, or Commissioners of the Great Seal for the Time being, or the Chancellor, or Vice-Chancellor of the County Palatine of *Lancaster*, or the Chamberlain, or Vice-Chamberlain of the County Palatine

Palatine of *Chester*, for the Time being touching Lunaticks.

26. If any Constable or other Officer, or Master of any House of Correction, shall refuse to apprehend or pass Vagabonds, or shall be otherwise remiss in his Duty ; or if any Persons shall hinder the Execution of this Act, or rescue any Person apprehended, or passing from Place to Place by Virtue thereof, or shall be advising or assisting in their Escape, and shall be thereof convicted on Oath of one or more credible Witnesses, before one or more Justices, they shall forfeit any Sum not exceeding 5*l.* or less than 10*s.* to the Use of the Poor, to be levied by Distress and Sale of the Offender's Goods, for Want of which the Offender shall be committed to the House of Correction to hard Labour, for any Time not exceeding two Months.

27. If any Person permits Vagabonds to lodge in their Houses, Barns, or Out-houses, and shall not apprehend and car-

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ry them before some Justice, or give Notice to some Constable or other Officer so to do, such Person upon Conviction on Oath before two or more Justices, shall forfeit not exceeding 40s. nor less than 10s. Half to the Informer, and Half to the Poor, to be levied by Distress and Sale, rendring the Overplus on Demand; and if any Charge be brought on any Place by Means of such Offence, it shall be levied by Distress and Sale as aforesaid; and for Want of such Distress the Offender shall be committed to the House of Correction to hard Labour, not exceeding three Months.

28. Church-wardens and Overseers may relieve Persons whilst in their Parishes, who by sudden Sickness, or other accidental Misfortune, may not be removed without Danger of their Lives, and their Expences shall be allowed in their Accounts; and all Masters of Hospitals may provide for sick or impotent Persons, according to their respective Foundations,
or

or give Money for Relief of such casual Poor.

29. Persons aggrieved by any Justices Pass, may appeal to the next General or Quarter-Sessions.

30. All Cities and Towns, where by special Acts of Parliament the Charge of passing Vagrants is to be otherwise defrayed than by this Act directed, or Passes managed otherwise, the said Rules shall be followed, as if this Act had never been made.

31. Nothing in this Act shall prejudice the Heirs or Assigns of *John Dutton* of *Dutton*, late of the County of *Chester*, Esq; concerning any Privilege they now use, or ought to use in the County Palatine of *Chester*, and County of *Chester*, by Reason of any ancient Charters, or any other Title whatsoever.

32. If the Grand Jury at the Assizes held for any County or Liberty, present

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that there is no House of Correction, or not a sufficient Number of them, that those already erected ought to be enlarged, or made more convenient, the Justices at their General or Quarter-Sessions may build or enlarge such Houses to make them more convenient, and may raise Money sufficient for building, enlarging, or purchasing Houses or Land for that Purpose.

33. The Justices for any County, &c. are to take effectual Care that the Houses of Correction, provided within their Jurisdictions (except they are erected and maintained by any particular Founders) shall be duly fitted up, and supplied with all Necessaries for relieving, setting to work, and correcting all idle and disorderly Persons who shall be sent to the same; and any two Justices appointed at the General or Quarter-Sessions shall visit the same twice or oftner in every Year, and make their Report to the next General or Quarter-Sessions, that what is amiss may be reformed; and the said Justices

stices shall have the same Power over the Houses newly erected, as they have over Houses erected under former Laws; and if Masters of Houses of Correction do not set to work and punish such Vagabonds, or are otherwise negligent in their Duty, they may be fined by the Justices in General or Quarter-Sessions, as by the Act of 7 James the First, intituled, *An Act for the due Execution of divers Laws and Statutes heretofore made against Rogues, Vagabonds, and sturdy Beggars, and other lewd and idle Persons*; which Fines shall be paid to the Treasurer, to be accounted for as Part of the public Stock; and the said Justices may appoint or remove any Masters or other Officers of Houses of Correction, and make such Orders as they shall think fit, for the better governing the said Houses, and for employing, relieving, and punishing the Persons therein, or sending them to, or from thence; and if any Persons shall refuse to quit Possession of such House of Correction, after having an Order so to do, from the General or Quarter-Sessions, for the Space

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of Ten Days, any two Justices may by their Warrant to the Sheriff, remove them out of such House, in like Manner as upon a Writ of *Habere facias Possessionem*.

34. If Offenders are committed to Prison, and the Time and Manner of their Punishment is not limited by any Law in Being, the Justice shall commit them to the House of Correction to hard Labour, till the next General or Quarter-Sessions, or till discharged by due Course of Law ; and two Justices (one being the Justice who committed them) may discharge them before Sessions, if they see Cause, but if they be not so discharged, the Sessions may discharge them, or continue them if they think fit, not exceeding three Months.

35. All Money raised by Virtue of this Act, whether to pass or maintain Vagrants, Houses, or Lands, or defray any other Expences concerning them, shall be paid to the Treasurer of the County, by an
Act

Act made last Sessions of Parliament, intituled, *An Act for the more easy assessing, collecting, and levying of County Rates.*

36. The Defendant in any Actions prosecuted for Things done in Pursuance of this Act, may plead the General Issue, &c. and if Judgment be given against the Plaintiff, &c. may recover double Costs. To commence from 1st June 1740, and all other Acts are hereby repealed.

13 Geo. 2. cap. 29,

ENACTS, That the Corporation called, *The Governors and Guardians of the Hospital for the Maintenance and Education of exposed and deserted young Children*, and their Successors, may purchase Lands or Tenements to the Value of 4000*l. per Annum*, in Fee, or for Terms of Years, or as Tenants at Will, and to erect Buildings, or convert Buildings purchased or hired, to be an Hospital for the Reception of such poor exposed Children, in such Manner as to the Corporation shall seem meet.

2. All Houses, Lands, &c. at any Time purchased, or hired by the said Corporation, to be converted into an Hospital as aforesaid, or on which such Hospital shall be erected, shall be rated in the same Manner as the said Premises were rated in 1739, and shall not be ever assessed at any higher Value, notwithstanding any Im-

Improvements hereafter made by the said Corporation.

3. All Persons of whatever Denomination, or however incapacitated by Law, whether Corporations aggregate or sole, *Femes Covert*, Trustees and Guardians for Lunaticks, or Ideots, Executors, or Administrators on Behalf of themselves, or their *Cestui que Trusts*, whether Infants, or Issue unborn, Lunaticks, Ideots, &c. may contract and sell to the said Corporation, any Lands, Tenements, &c. as they shall be seised of or interested in, provided the said Contract before it is carried into Execution, be approved of by the Lord Chancellor, Lord Keeper, or Lords Commissioners of the Great Seal of *Great Britain* for the Time being, on Petition to him or them exhibited on Behalf of such Persons for that Purpose, and the said Lord Chancellor, &c. are hereby required in a summary Way, without any Bill filed, to examine into the Allegation of any such Petition, and approve or disapprove of such Contract, and direct the Disposition of the

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the Money arising therefrom, as to them shall seem just, and all Contracts, &c. made as aforesaid, shall be good in Law, to convey the Estate and Interest of the Persons conveying, but also all Rights, Estates, Interest, &c. of their several *Cestui que Trusts*, and all Persons claiming from or under them.

4. All Purchase-Money for Messuages, Lands, &c. for erecting an Hospital for the Reception of poor and exposed Children, shall be laid out in the Purchase of other Lands or Tenements, to be settled to the same Uses as the Lands, &c. so sold and conveyed were settled, or chargeable with.

5. The said Corporation, or Persons authorized by them, may receive, maintain, and educate as many Children in the said Hospital as they shall think fit, and all Persons may bring their Children to the said Hospital, to be received, maintained, and educated therein, in case they think proper to receive the same,
and

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and no Church-warden, &c. shall disturb any Person in bringing such Children to the said Hospital, or in returning from the same, on Penalty of 40 s. for every Offence, Half to the Informer, and Half to the Hospital, to be levied by Warrant of two Justices for the County or Place where the Offence shall be committed.

6. No Overseer of the Poor, Church-warden, or other Parish Officer, shall have any Authority in the said Hospital, nor shall have any Power to inquire into the Birth or Settlement of such Children, or do any other Act within the said Hospital, save only to levy the Taxes due to them by Act of Parliament.

7. No Children, Nurses, or Servants, who shall be educated or employed in the said Hospital, shall gain any Settlement in the Parish where such Hospital is situate, nor shall any Fee be due to the Rector, Vicar, Curate, Minister, Clerk

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Clerk, Sexton, Servant, or other Officer of the Parish where the Hospital is situate, on Account of the Christening, Death, or Burial of any Children there maintained, and the Offices of Baptism and Burial shall be performed by Ministers of the Church of *England*, provided by the Corporation, who shall also provide a Burial-Ground, and not be intitled to use any Church-yard, or Burial-place belonging to any Parish.

8. The Corporation may detain and employ in the said Hospital, or place out Apprentice to any Trade, or to the Sea-Service, any Male Children, brought to them for Maintenance and Education, till they attain the full Age of Twenty-four Years, and every such Female Child may be employed or put Apprentice till their respective Ages of Twenty-one Years, or shall be married, and every such Binding or Hiring, shall be good in Law.

9. The Corporation may hire or let out such Children to any Persons who
4 will

will contract for the same, and give reasonable Correction for their Idleness, or Misbehaviour; and such Children shall be under the Controul of the said Corporation, so long as they are maintained by them.

10. The President, Vice-Presidents, and Treasurer of the said Corporation, shall continue till others are chosen in their Offices, and a general Meeting of the Governors and Guardians of the said Hospital shall meet on every 2d *Wednesday* in *May* yearly for that Purpose; the Election shall be by Ballot, determin'd by the Majority of Votes, and if it cannot be compleated in the said 2d *Wednesday*, a new Election shall be made within 40 Days after, according to the Adjournment of the Majority of Governors present; Notice of which Adjournment, as also of all general Meetings, shall be given in the *Gazette*, or (if the Majority present shall direct) in any other public Newspaper, at least three Days before such general

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neral Meeting, whether annual, quarterly,
or special.

11. If any Vacancy happen by Death, of any Presidents, Vice-Presidents, or Treasurers, the Corporation at the next general or quarterly Court may elect others in their Room, by Way of Ballot, as aforesaid; they may also appoint Committees to inspect and audit their Accounts, and may at such general Meetings pass such Accounts, and make By-Laws as they think proper, provided such By-Laws are consistent with the Laws of the Realm.

12. The Governors and Guardians of the said Corporation, are not obliged to take the Sacrament, or any Oaths to qualify them to execute the Office of President, &c. or any Trust relating to the said Corporation.

13. The Governors, or any Committee chosen by the Corporation may elect or displace any Officer, or Servant, belonging to the said Corporation, at their Discretion.

14. Servants may be sent to the common Gaol, by any two Justices of the County, Liberty, or Franchise, where such Servant shall be found, till they give a true Account, and pay what remains in their Hands, and deliver up to the Corporation all their Vouchers and other Effects.

15. This shall be deemed a public Act, and may be given in Evidence on the General Issue, without specially pleading the same.

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14. Servants may be sent to the common Gaol, by any two Justices of the County, Liberty, or Franchise, where such Servant shall be found, till they give a true Account, and pay what remains in their Hands, and deliver up to the Corporation all their Vouchers and other Receipts.

15. This shall be deemed a public Act, and may be given in Evidence on the General Issues, without specially pleading the same.

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